

Reply of the Allied and Associated Powers to the Observations of the German Delegation on the Conditions of Peace.

INTRODUCTION.

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BASIS OF THE PEACE NEGOTIATIONS.

The Allied and Associated Powers are in complete accord with the German Delegation in their insistence that the basis for the negotiation of the Treaty of Peace is to be found in the correspondence which immediately preceded the signing of the Armistice on November 11, 1918. It was there agreed that the Treaty of Peace should be based upon the Fourteen Points of President Wilson's address of January 8, 1918, as they were modified by the Allies' memorandum included in the President's note of November 5, 1918, and upon the principles of settlement enunciated by President Wilson in his later addresses, and particularly in his address of September 27, 1918. These are the principles upon which hostilities were abandoned in November, 1918, these are the principles upon which the Allied and Associated Powers agreed that peace might be based, these are the principles which have guided them in the deliberations which have led to the formulation of the Conditions of Peace.

It is now contended by the German Delegation that the Conditions of Peace do not conform to these principles which had thus become binding upon the Allied and Associated Powers as well as upon the Germans themselves. In an attempt to prove a breach of this agreement the German Delegation have drawn quotations from a number of speeches, most of which were before the Address to Congress and many of which were uttered by Allied statesmen at a time when they were not at war with Germany, or had no responsibility for the conduct of public affairs. The Allied and Associated Powers consider it unnecessary, therefore, to oppose this list of detached quotations with others equally irrelevant to a discussion concerning the basis of the peace negotiations. In answer to the implication of these quotations, it is sufficient to refer to a note of the Allied Powers transmitted to the President of the United States on January 10, 1917, in response to an inquiry as to the conditions upon which they would be prepared to make peace:

"The Allies feel a desire as deep as that of the United States Government to see ended, at the earliest possible moment, the war for which the Central Empires are responsible, and which inflicts sufferings so cruel upon humanity. But they judge it impossible to-day to bring about a peace that shall assure to them the reparation, the restitution and the guarantees to which they are entitled by the aggression for which the responsibility lies upon the Central Empires—and of which the very principle tended to undermine the safety of Europe—a peace which shall also permit the establishment upon firm foundations of the future of the nations of Europe.

In the same note, in addition to a reference to Poland, they declared the War Aims of the Allies to include:

"....first of all, the restoration of Belgium, Serbia, Montenegro, with the compensation due to them; the evacuation of the invaded territories in France, in Russia, in Roumania with just reparation; the reorganization of Europe, guaranteed by a stable regime and based at once on respect for nationalities and on the right to full security and liberty of economic development possessed by all peoples, small and great, and

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at the same time upon territorial conventions and international settlements such as to guarantee land and sea frontiers against unjustified attacks; the restitution of provinces formerly torn away from the Allies by force against the wish of their inhabitants; the liberation of the Italians as also of the Slavs, Roumanians, Czecho-Slovaks from foreign domination; the setting free of the populations subject to the bloody tyranny of the Turks; and the turning out of Europe of the Ottoman Empire as decidedly foreign to Western civilization."

It cannot be disputed that responsible statesmen, those qualified to express the will of the peoples of the Allied and Associated powers, have never entertained or expressed a desire for any other peace than one which should undo the wrongs of 1914, vindicate justice and international right, and reconstruct the political foundations of Europe on lines which would give liberty to all its peoples, and therefore the prospect of a lasting peace.

But the German Delegation profess to find discrepancies between the agreed basis of peace and the draft of the Treaty. They discover a contradiction between the terms of the Treaty and a statement taken from an address delivered at Baltimore on April 6, 1918, by President Wilson:

"We are ready, whenever the final reckoning is made, to be just to the German people, as with all others....To propose anything but justice to Germany at any time, whatever the outcome of the war, would be to renounce our own cause, for we ask nothing that we are not willing to accord."

This quotation does not stand alone. It should be read in conjunction with one of the cardinal principles of the Mount Vernon address of July 4, 1918, which demanded:

"The destruction of every arbitrary power everywhere that can separately, secretly, and of its single choice disturb the peace of the world or, if it cannot be presently destroyed, at the least its reduction to virtual impotence."

Neither of these two principles of the agreed basis of peace has been lost sight of in the formulation of these Conditions.

The German Delegation see in the provisions with regard to territorial settlements a conflict between the terms of the Treaty and the following statement made by President Wilson on June 9, 1918:

"If it is indeed and in truth the mutual aim of the Governments allied against Germany and of their nations, in the coming negotiations of peace to bring about a sure and lasting peace, all who sit down at the table of negotiations will be ready and willing to pay the only price for which it can be gotten....This price is impartial justice in every item without regard to whose interests may be crossed by it, and not only impartial justice but also satisfaction to all nations whose future is to be decided upon."

In their communication they enumerate a number of territorial settlements and conclude that "their basis is indifferently, now the consideration of an unchangeable historical right, now the principle of ethnographical facts, now the consideration of economic interests. In every case the decision is against Germany."

If in certain cases, not in all, the decision has in fact not been in favour of Germany, this is not the result of any purpose to act unjustly towards Germany. It is the inevitable result of the fact that an appreciable portion of the territory of the German Empire consisted of districts which had in the past been wrongfully appropriated by Prussia or by Germany. It is a chief duty of the Allied and Associated Powers to rectify these injustices in accordance with the explicit statement of President Wilson in his address to Congress of February, 11, 1918:

"Each part of the final settlement must be based upon the essential justice of that particular case and upon such adjustments as are most likely to bring a peace that will be permanent."

The German Delegation find a conflict between the terms of the Treaty which set forth the economic provisions and the third of President Wilson's Fourteen Points:

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"The removal so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance."

In their application of this principle the German Delegation would neglect entirely the economic conditions which have resulted from the war, with their own country intact and in nowise suffering from the devastation brought upon the lands and homes of the Allied peoples. They nevertheless seek immediate admission to all of the trade arrangements which are to be provided for by the Conditions of Peace. This would have the effect of establishing an inequality of trade conditions which would continue in Europe for many years to come. Equality can only be established by arrangements which take into account the existing differences in economic strength and industrial integrity of the peoples of Europe. But the Conditions of Peace contain some provisions for the future which may outlast the transition period during which the economic balance is to be restored; and a reciprocity is foreseen after that period which is very clearly that equality of trade conditions for which President Wilson has stipulated.

The German Delegation profess to find in the terms of the Treaty a violation of the principle expressed by President Wilson before Congress on February 11, 1918:

"That peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game."

The Allied and Associated Powers emphatically reject the suggestion that there has been any "bartering about" of peoples and provinces. Every territorial settlement of the Treaty of Peace has been determined upon after most careful and laboured consideration of all the religious, racial and linguistic factors in each particular country. The legitimate hopes of peoples long under alien rule have been heard; and the decisions in each instance have been founded upon the principle explicitly enunciated in this same address; that

"All well-defined national aspirations shall be accorded the utmost satisfaction that can be accorded them without introducing new or perpetuating old elements of discord and antagonism that would be likely in time to break the peace of Europe and consequently of the world."

Finally, the German Delegation take exception to the fact that Germany has not been invited to join in the formation of the League of Nations as an original member. President Wilson's declarations, however, envisaged no league of nations which would include Germany at the outset, and no statement of his can be adduced in support of this contention. Indeed, in his speech of September 27, 1918, he laid down with the greatest precision the conditions which must govern her admission:

"It is necessary to guarantee the peace, and the peace cannot be guaranteed as an afterthought. The reason, to speak in plain terms again, why it must be guaranteed, is that there will be parties to the peace whose promises have proved untrustworthy, and means must be found in connection with the peace settlement itself to remove that source of insecurity."

and further,

"Germany will have to redeem her character not by what happens at the peace table but by what follows."

The Allied and Associated Powers look forward to the time when the League of Nations established by this Treaty shall extend its membership to all peoples; but they cannot abandon any of the essential conditions of an enduring League.

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PART I.

THE LEAGUE OF NATIONS.

I

The Allied and Associated Powers regard the Covenant of the League of Nations as the foundation of the Treaty of Peace. They have given careful consideration to all its terms and they are convinced that it introduces an element of progress into the relations of peoples which the future will develop and strengthen to the advantage of justice and of peace.

The text of the Treaty itself makes it clear that it has never been the intention of the Allied and Associated Powers that Germany or any other power should be indefinitely excluded from the League of Nations. Provisions have accordingly been laid down which apply generally to States not members of the League and which determine the conditions of their admission subsequent to its formation.

Any State whose government shall have given clear proofs of its stability as well as of its intention to observe its international obligations—particularly those obligations which arise out of the Treaty of Peace—will find the Principal Allied and Associated Powers disposed to support its candidature for admission to the League.

In the case of Germany, it is hardly necessary to say that the record of the last five years is not of a character to justify an exception, at the present time, to the general rule to which reference has just been made. Her case demands a definite test. The length of this period will largely depend upon the acts of the German Government, and it is within the choice of that Government, by its attitude towards the Treaty of Peace to shorten the period of delay which the League of Nations, without any intention of prolonging it unduly, shall consider it necessary to fix.

Provided these necessary conditions are assured, they see no reason why Germany should not become a member of the League in the early future.

II

The Allied and Associated Powers do not consider that an addition to the Covenant in the sense of the German proposals regarding economic questions is necessary. They would point out that the Covenant already provides that "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League. . . . will make provision to secure and maintain freedom of communications and of transit, and equitable treatment for the commerce of all Members of the League." So soon as Germany is admitted to the League, she will enjoy the benefits of these provisions. The establishment of general conventions with regard to transit questions is now being considered.

III

The Allied and Associated Powers are prepared to accord guarantees, under the protection of the League of Nations, for the educational, religious and cultural rights of German minorities in territories transferred from the German Empire to the new states created by the Treaty. They take note of the statement of the German Delegates that Germany is determined to treat foreign minorities within her territory according to the same principles.

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IV

The Allied and Associated Powers have already pointed out to the German Delegates that the Covenant of the League of Nations provides for "the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations." They recognize that the acceptance by Germany of the terms laid down for her own disarmament will facilitate and hasten the accomplishment of a general reduction of armaments; and they intend to open negotiations immediately with a view to the eventual adoption of a scheme of such general reduction. It goes without saying that the realisation of this programme will depend in large part on the satisfactory carrying out by Germany of her own engagements.

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PARTS II and III.

BOUNDARIES OF GERMANY AND POLITICAL CLAUSES FOR EUROPE.

SECTION I.

BELGIUM.

The territories of Eupen and Malmedy were separated from the neighbouring Belgian lands of Limburg, Liège, and Luxemburg in 1814-15, when they were assigned to Prussia for making up the number of people on the Left Bank of the Rhine taken over as an offset for certain renunciations in Saxony. No account was taken of the desires of the people, nor of geographical or linguistic frontiers. Nevertheless, this region has continued in close economic and social relations with the adjacent portions of Belgium, and in spite of a century of Prussification the Walloon speech has maintained itself among several thousand of its inhabitants. At the same time the territory has been made a basis for German militarism by the construction of the great camp of Elsenborn and various strategic railways directed against Belgium. The reasons seem sufficient to justify the union of the territory to Belgium, provided the petitions to this effect are sufficiently supported by the population of the district. The Treaty makes provision for consulting the population under the auspices of the League of Nations.

With regard to the neutralized territory of Moresnet the sovereignty of which has been in dispute since 1815, the Prussians make a claim for which there appears to be no justification of any kind. The Treaty settles this dispute in favour of Belgium, and at the same time awards to Belgium, in partial compensation for the destruction of Belgian forests, the adjacent domanial and communal woods in Prussian Moresnet.

SECTION II.

LUXEMBURG.

The observations of the German Delegations as to Luxemburg do not require any answer, as the clauses of the Treaty are justified by two uncontrovertible facts: the violation of the neutrality of the Grand Duchy by Germany during the war, and the denunciation of the Customs Union on which Luxemburg herself has decided and which she has communicated to the Allied and Associated Powers since the armistice.

SECTION IV.

TERRITORY OF THE SAAR BASIN.

The territory of the Saar basin has already been the subject of an exchange of notes with the German Delegation. The new observations contained in the German communication seem to show a complete misapprehension of the spirit and purpose of this section of the Treaty.

The purpose and decision of the Allies have twice been stated, first in the text of the Treaty itself, in which (Articles 45 and 46) Germany is to accept the provisions in question "as compensation for the destruction of the coal-mines in the North of France and as part payment towards the total reparation due from Germany for the

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damage resulting from the war, and . . . in order to assure the rights and welfare of the population"; and secondly, in the note of May 24th, "the Allied and Associated Governments have chosen this particular form of reparation because it was felt that the destruction of the mines in the north of France was an act of such a nature that a definite and exemplary retribution should be exacted; this object would not be obtained by the mere supply of a specified or unspecified amount of coal. This scheme, therefore, in its general provisions, must be maintained, and on this, the Allied and Associated Powers are not prepared to agree to any alternative."

The German Delegation, on the other hand, declares that "the German Government refuses to carry out any reparation which will have the character of a punishment." The German idea of justice appears then to be one which excludes a conception which is essential to any just settlement and a necessary basis for subsequent reconciliation.

It has been the desire of the Allied and Associated Powers in determining upon the form of reparation to be imposed to choose one which, by its exceptional nature, will be for a limited period a definite and visible symbol. At the same time, they intended, by assuring themselves of the immediate possession of a security for reparation, to escape the risks to which the German memoir itself has drawn attention.

On the other hand, they have exercised the greatest care in order to avoid inflicting on the inhabitants of the district itself any material or moral injury. In every point their interests have been most scrupulously guarded, and in fact their condition will be improved.

The frontiers of the district have been precisely determined so as to secure the least possible interference with the present administrative units or with the daily vocations of this complex population. It is expressly provided that the whole system of administration of criminal and civil law and of taxation shall be maintained. The inhabitants are to retain their local assemblies, their religious liberties, their schools, and the use of their language. All existing guarantees in favour of the working population are maintained, and new rules be in accordance with the principles adopted by the League of Nations. It is true that the Governing Commission, with which the final control rests, will not be directly responsible to a Parliamentary Assembly, but it will be responsible to the League of Nations and not to the French Government. The arrangement made will afford an ample guarantee against the misuse of the power which is entrusted to it; but, in addition, the Governing Commission is required to take the advice of the elected representatives of the district before any change in the laws can be made or any new tax imposed. The whole revenue derived from taxation will be devoted to local purposes and for the first time since the forcible annexation of the district to Prussia and to Bavaria, the people will live under a Government resident on the spot which will have no occupation and no interest except their welfare. The Allied and Associated Powers have full confidence that the inhabitants of the district will have no reason to regard the new administration under which they will be placed as one more remote than was the administration which was conducted from Berlin and Munich.

The German Note constantly overlooks the fact that the whole arrangement is temporary, and that at the end of 15 years the inhabitants will have a full and free right to choose the sovereignty under which they are to live.

SECTION V.

ALSACE-LORRAINE.

The clauses concerning Alsace and Lorraine are but the application of the 8th of the 14 Points which Germany, at the time of the Armistice, accepted as the basis of Peace; "the wrong done by Prussia to France in 1871, as regards Alsace and

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Lorraine, which has disturbed the peace of the world for nearly 50 years must be righted, in order that peace may again be assured in the interest of all."

Fifty years ago, the injustice consisted in the annexation of a French country against the will of its inhabitants, as unanimously expressed at Bordeaux by their elected representatives, reiterated in the Reichstag in 1874 and many times since by the election of protesting deputies and finally confirmed during the war by the special measures which Germany had to take against Alsatians and Lorrainers, both civilians and soldiers.

To right a wrong is to replace things, so far as possible, in the state in which they were before being disturbed by the wrong. All the Clauses of the Treaty concerning Alsace and Lorraine have this object in view. They will not, however, suffice to wipe out the sufferings of two Provinces which, for nearly half a century, have been for the Germans merely a "military glacis" and, according to the expression of Herr von Kühlmann, a means of "cementing" the unity of the Empire.

The Allied and Associated Powers could not therefore admit a plebiscite for these Provinces. Germany, having accepted the 8th Point and signed the Armistice which places Alsace and Lorraine in the position of evacuated territories, has no right to demand a plebiscite. The population of Alsace and Lorraine has never asked for it. On the contrary it protested for nearly 50 years, at the cost of its own tranquility and its own interests, against the abuse of strength of which it was the victim in 1871. Its will is not therefore in doubt, and the Allied and Associated Governments mean to ensure respect for it.

The arguments, based on history and language, once more brought forward by Germany, are formally contested by the Allied and Associated Powers and do not modify their point of view.

The legal objections derived from the "ante-dated cession" are also inadmissible. Germany recognised this when she signed the Armistice. Moreover Alsace and Lorraine, by throwing themselves into the arms of France, as into those of a long-lost mother, themselves fixed the date of their deliverance. A Treaty founded on the right of self-determination of peoples cannot but take note of a people's will so solemnly proclaimed.

In all its Clauses, whether they concern nationality, debts or State property, the Treaty has no other object than to restore persons and things to the legal position in which they were in 1871. The obligation of repairing the injustice then committed admits of no other alternative, and Germany herself has accepted this obligation in subscribing to the 14 Points.

It should be added that it is easy to justify the exception made in favour of France to the general principle admitted in the Treaty, according to which the State receiving territory takes over part of the public debt of the ceding State and pays for the property of the said State in the ceded territory. In 1871, Germany, when she seized Alsace and Lorraine, refused to take over any part of the French debt; she paid nothing for any French State property, and Herr von Bismarck boasted of this in the Reichstag on May 25, 1871. To-day the Allied and Associated Powers mean France to recover Alsace and Lorraine under exactly the same conditions, and consequently, that she should take over no part of the German debt nor pay for any State property. This solution is just, for if German State property includes railways, the French owners of which Germany compensated in 1871 by sums drawn from the war indemnity, and if these railways have been developed since 1871, Germany on the contrary not having, at that time, assumed liability either for that portion of the French debt which belonged to Alsace and Lorraine or for the State property, the loss (capital and interest) imposed on France under this head exceeds the sum to which Germany makes a claim.

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As regards the local debt of Alsace and Lorraine and of the public institutions of the Provinces which existed before August the 1st, 1914, it has always been understood between the Allied and Associated Governments that France should accept liability for them.

SECTION VI.

Austria.

The Allied and Associated Powers take note of the declaration in which Germany declares that she "has never had and will never have the intention of changing by violence the frontier between Germany and Austria."

SECTION VII.

Poland.

In dealing with the problem of the Eastern frontiers of Germany, it is desirable to place on record two cardinal principles.

First, there is imposed upon the Allies a special obligation to use the victory which they have won in order to re-establish the Polish Nation in the independence of which it was unjustly deprived more than one hundred years ago. This act was one of the greatest wrongs of which history has record, a crime the memory and the result of which has for long poisoned the political life of a large portion of the continent of Europe. The seizure of the Western provinces of Poland was one of the essential steps by which the military power of Prussia was built up, the necessity of holding fast these provinces has perverted the whole political life, first of Prussia and then of Germany. To undo this wrong is the first duty of the Allies, as has been proclaimed by them throughout the war, even when to some it might have appeared that the prospect of ultimate success was most remote; now that the victory has been won, the aim can be achieved. The restoration has already been spontaneously agreed to by the Russian Government; its attainment is ensured by the collapse of the Central Powers.

The second principle, which has been proclaimed by the Allies and formally accepted by Germany, is that there shall be included in the restored Poland those districts which are now inhabited by an indisputably Polish population.

These are the principles which have guided the Allies in determining the Eastern frontiers of Germany, and the Conditions of Peace have been drawn up in strict accordance with them.

Posen and West Prussia.

In the Western portions of the former Kingdom of Poland which are now included in the Prussian Provinces of Posen and West Prussia, the application of the second principle only to a very small degree modifies that of the first. When the partition took place these portions of Poland were predominantly inhabited by Poles except in some towns and districts to which German colonists had made their way, the country was completely Polish in speech and sentiment. Had the Allied and Associated Powers applied the strict law of historic retribution, they would have been justified in restoring to Poland these two provinces almost in their entirety. They have in fact not done so; they have deliberately waived the claim of historic right because they wished to avoid even the appearance of injustice, and they have left to Germany those districts on the West in which there is an undisputed German predominance in immediate contiguity to German territory.

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Apart from these districts it is true that there are certain areas, often far removed from the German frontier, such as Bromberg, in which there is a majority of Germans. It would be impossible to draw a frontier in such a way that these areas should be left to Germany while the surrounding purely Polish areas were included in Poland. There must be some sacrifice on one side or the other. If this is once recognized, there can be no doubt as to who has the prior claim to consideration. Numerous as the Germans in these districts may be, the number of Poles concerned is greater; to have left these districts to Germany would be to sacrifice the majority to the minority. Moreover, it is necessary to recall the methods by which German preponderance in certain districts has been established. German settlers, German colonists, German residents have not come here merely in obedience to natural causes. Their presence is the direct result of the policy pursued by the Prussian Government, which has used all its immense resources to dispossess the original population and substitute for it one of German speech and German nationality. This process has been continued to the very eve of the war with exceptional harshness, and has called forth protests even in Germany itself. To recognize that such action should give a permanent title to the country would be to give an encouragement and premium to the grossest acts of injustice and oppression.

In order to eliminate any possible injustice the Allied and Associated Powers have caused the Western frontiers of Poland to be carefully reconsidered; as a result of this they have made certain modifications in detail with the object of bringing the frontier into closer harmony with the ethnographical division; the result of these changes will be on the whole to diminish the number of Germans who are included in Poland. In particular, the Allied and Associated Powers have determined to adhere strictly to the historical frontier between Pomerania and West Prussia, so that here no part of Germany outside the former Kingdom of Poland shall be assigned to Poland. It is not certain that these changes will be practical improvements; the closer adherence to the ethnic line may produce some local inconvenience.

Upper Silesia.

A considerable portion of the German answer is devoted to the question of Upper Silesia. It is recognized that the problem here differs from that in Posen and West Prussia they were for the reason that Upper Silesia was not a part of the Polish territories when dismembered by the Partition. It may be said that Poland has no *legal* claim to the cession of Upper Silesia: it is emphatically not true that she has no claim which could be supported on the principles of President Wilson. In the district to be ceded, the majority of the population is indisputably Polish. Every German book of reference, every school-book, teaches the German child that the inhabitants are Polish in origin and in speech. The Allied and Associated Powers would have been acting in complete violation of the principles which the German Government itself professes to accept had they left unregarded the Polish claims to this district.

However the German Government now contest these conclusions. They insist that separation from Germany is not in accordance with the wishes or the interests of the population. Under these circumstances the Allied and Associated Powers are willing to allow the question to be determined by those particularly concerned. They have therefore decided that this territory shall not be immediately ceded to Poland, but that arrangements shall be made to hold a plebiscite there.

They would gladly have avoided this, for the appeal must be postponed for some considerable time. It will involve the temporary occupation of the district by foreign troops. In order to secure the full impartiality of the vote, it will be necessary to establish of a separate Commission to administer the territory during the intervening period.

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Moreover in order to prevent Germany from being deprived arbitrarily of materials necessary for her industrial life, an additional Article has been included in the Treaty providing that mineral products, including coal, produced in any part of Upper Silesia that may be transferred, shall be available for purchase by Germany on the same terms as by the Poles themselves.

In order further to meet any criticism regarding the consequences of the transfer of territory to Poland, the Allied and Associated Powers have introduced a new provision, described below in the paragraphs on Property, Rights and Interests, the effect of which will be to give protection to Germans in any liquidation of their property.

The restoration of the Polish State is a great historical act which cannot be achieved without breaking many ties and causing temporary difficulty and distress to many individuals. But it has been the special concern of the Allied and Associated Powers to provide for the adequate protection of those Germans who will find themselves transferred to Poland, as well as of all other religious, racial or linguistic minorities. There is in the Treaty a clause by which there will be secured to them the enjoyment of religious liberty and also the right to use their own language and that of having their children educated in their own language. They will not be subjected to persecution similar to that which Poles had to endure from the Prussian State.

SECTION IX.

East Prussia.

The German Government declares that it cannot accept a solution by which East Prussia shall be separated from the rest of Germany. It must, therefore, be recalled that East Prussia was in fact so separated for many hundreds of years, and that at no date until 1866 was it actually included in the political frontiers of Germany; it has always been recognized by German historians as being not an original German land, but a German colony. It is no doubt for the convenience of Germany that this country, which has been conquered and wrested from its original inhabitants by the German sword, should be in direct contact with the true Germany, but the convenience of Germany is no reason why the dismemberment and partition of another nation should be continued. Moreover, the interests which the Germans in East Prussia, who number less than two millions, have in establishing a land connection with Germany, is much less vital than the interest of the whole Polish nation in securing direct access to the sea.

The larger part of the trade of East Prussia with the rest of Germany is sea-borne; for the commercial life of the province it will matter little that West Prussia is restored to Poland, but for Poland immediate and unbroken communication with Danzig and the remainder of the coast by railways which are entirely under the control of the Polish State is essential. The inconvenience caused East Prussia by the new frontiers is negligible compared to that which would be caused to Poland by any other arrangement.

But in addition the importance of the railway connection between East Prussia and Germany has been fully recognized in the Treaty, and the Articles dealing with this have been inserted. They have now been carefully revised, and they provide the fullest security that there shall be no impediment placed in the way of communication across the intervening Polish territory.

It is difficult to understand the objections raised by the Germans to the plebiscite which is to be held in certain portions of East Prussia. According to all information, there is in the Allenstein district a considerable Polish majority. The German note states, on the other hand, that it is not inhabited by an incontestably Polish population and suggests that the Poles will not wish to be separated from Germany. It is precisely because there may be some doubt as to the political leanings of the inhabitants that

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the Allied and Associated Powers have determined to hold a plebiscite here. Where the affinities of the population are undoubted, there is no necessity for a plebiscite; where they are in doubt, there a plebiscite is enjoined. It is noted with surprise that the Germans at the very moment when they profess assent to the principle of self-determination, refuse to accept the most obvious means of applying it.

SECTION X.

Memel.

The Allied and Associated Powers reject the suggestion that the cession of the district of Memel conflicts with the principle of nationality. The district in question has always been Lithuanian; the majority of the population is Lithuanian in origin and in speech; and the fact that the city of Memel itself is in large part German is no justification for maintaining the district under German sovereignty, particularly in view of the fact that the port of Memel is the only sea outlet for Lithuania.

It has been decided that Memel and the adjoining district shall be transferred to the Allied and Associated Powers for the reason that the status of the Lithuanian territories is not yet established.

SECTION XI.

Danzig.

The German note declares that the German Government "must reject the proposed rape of Danzig and must insist that Danzig and its environs be left to the German Empire." The use of this language seems to show some want of appreciation of the true situation. The proposed settlement for Danzig has been drawn up with the most scrupulous care and will preserve the character which Danzig held during many centuries and, indeed, until forcibly and contrary to the will of the inhabitants it was annexed to the Prussian State. The population of Danzig is and has for long been predominantly German; just for this reason, it is not proposed to incorporate it in Poland. But Danzig, when a Hansa city, like many other Hansa cities, lay outside the political frontiers of Germany, and in union with Poland enjoyed a large measure of local independence and great commercial prosperity. It will now be replaced in a position similar to that which it held for so many centuries. The economic interests of Danzig and Poland are identical. For Danzig as the great port of the valley of the Vistula, the most intimate connection with Poland is essential. The annexation of West Prussia, including Danzig, to Germany, deprived Poland of that direct access to the sea which was hers by right. The Allied and Associated Powers propose that this direct access shall be restored. It is not enough that Poland should be allowed the use of German ports; the coast, short as it is, which is Polish must be restored to her. Poland claims, and justly claims, that the control and development of the port which is her sole opening to the sea shall be in her hands and the communications between it and Poland shall not be subjected to any foreign control, so that in this, one of the most important aspects of national life, Poland should be put on an equality with the other States of Europe.

SECTION XII.

Schleswig.

Schleswig was taken from Denmark by Prussia in 1864, but by the Treaty of Prague in 1866 Prussia undertook that the northern districts should be ceded to Denmark if by a free vote the population expressed a wish to be united to Denmark. In spite of repeated demands on the part of the inhabitants, no measures have ever been taken

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by Prussia or the German Empire to carry out this promise, and the Government of Denmark and the people of Schleswig have now asked the Peace Conference to secure for them a plebiscite. This the present Treaty now guarantees. At the request of the Danish Government provisions have been drawn up for the evacuation of the territory as far as the Eider and the Schlei by the German troops and the higher Prussian officials, and for the temporary administration of the territory and the holding of the plebiscite by an impartial International Commission, on which Norway and Sweden will be represented as well as the Allied and Associated Powers. In consequence of a request made by the Danish Government it has been decided to alter the limits of the territory within which the plebiscite will be held in accordance with their wishes. On the basis of the plebiscite which will be held there, the international commission will propose a precise delimitation of the frontier between Germany and Denmark, a delimitation in which geographic and economic conditions will be taken into account.

SECTION XIII.

Heligoland.

As regards Heligoland, while accepting the dismantling of the fortifications the German Delegates observe that—

“The measures which are necessary for the protection of the coast and of the harbour must continue in force, in the interests of the inhabitants of the island as well as of peaceful navigation and the fishing industry.”

A Commission will be appointed by the Principal Allied and Associated Powers, after the signature of the Treaty, to supervise the destruction of the fortifications. This Commission will decide what portion of the works protecting the coast from sea erosion can be allowed to remain and what portion must be destroyed as a precaution against the refortification of the island.

The only harbours it is proposed to destroy are the naval harbours within the positions given in Article 115; the fishing harbour is not within this area and the naval harbours are not used by fishing vessels. The Article must accordingly be accepted unconditionally.

SECTION XIV.

Russia.

The Allied and Associated Powers are of opinion that none of the reservations or the observations offered by the German Delegation as to Russia necessitate any change in the relevant articles of the Treaty.

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PART IV.

GERMAN RIGHTS AND INTERESTS OUTSIDE GERMANY.

I

In requiring Germany to renounce all her rights and claims to her overseas possessions, the Allied and Associated Powers placed before every other consideration the interests of the native populations advocated by President Wilson in the fifth point of his Fourteen Points mentioned in his Address of the 8th January, 1918. Reference to the evidence from German sources previous to the war of an official as well as of a private character, and to the formal charges made in the Reichstag, especially by MM. Erzberger and Noske, will suffice to throw full light upon the German colonial administration, upon the cruel methods of repression, the arbitrary requisition, and the various forms of forced labour which resulted in the depopulation of vast expanses of territory in German East Africa and the Cameroons, not to mention the tragic fate of the Hereros in South West Africa, which is well known to all.

Germany's dereliction in the sphere of colonial civilization has been revealed too completely to admit of the Allied and Associated Powers consenting to make a second experiment and of their assuming the responsibility of again abandoning thirteen or fourteen millions of natives to a fate from which the war has delivered them.

Moreover, the Allied and Associated Powers felt themselves compelled to safeguard their own security and the peace of the world against a military imperialism, which sought to establish bases whence it could pursue a policy of interference and intimidation against the other Powers.

II

The Allied and Associated Powers considered that the loss of her Colonies would not hinder Germany's normal economic development.

The trade of the German Colonies has never represented more than a very small fraction of Germany's total trade: in 1913 one-half of one per cent of her imports and one-half of one per cent of her exports. Of the total volume imported by Germany of such products as cotton, cocoa, rubber, palm kernels, tobacco, jute and copra, only 3 per cent came from her Colonies. It is obvious that the financial, commercial and industrial rehabilitation of Germany must depend on other factors.

For climatic reasons and other natural causes the German Colonies are incapable of accommodating more than a very small proportion of the excess German emigration. The small number of colonists resident there before the war is conclusive evidence in this respect.

III

The Allied and Associated Powers have drawn up, in the matter of the cession of the German Colonies, the following methods of procedure, which are in conformity with the rules of International Law and Equity:

(a) The Allied and Associated Powers are applying to the German Colonies the general principle in accordance with which the transfer of sovereignty involves the transfer under the same conditions to the State to which the surrender is made of the immovable and movable property of the ceding State.

They see no reason for consenting in the case of the Colonies to any departure from that principle which may have been admitted as an exceptional measure in the case of territory in Europe.

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(b) They are of opinion that the Colonies should not bear any portion of the German debt, nor remain under any obligation to refund to Germany the expenses incurred by the Imperial administration of the Protectorate. In fact, they consider that it would be unjust to burden the natives with expenditure which appears to have been incurred in Germany's own interest, and that it would be no less unjust to make this responsibility rest upon the Mandatory Powers, which, in so far as they may be appointed Trustees by the League of Nations, will derive no benefit from such Trusteeship.

IV

The Allied and Associated Powers considered that it would be necessary in the interest of the natives, as well as in that of general peace, to restrict the influence which Germany might seek to exert over her former Colonies and over the territories of the Allied and Associated Powers.

(a) They are obliged for the reasons of security already mentioned to reserve to themselves full liberty of action in determining the conditions on which Germans will be allowed to establish themselves in the territories of the former German Colonies. Moreover the control to be exercised by the League of Nations will provide all the necessary guarantees.

(b) They require Germany to subscribe to the Conventions which they may conclude for the control of the traffic in Arms and Spirits and for the modification of the General Acts of Berlin and Brussels. They do not think that Germany has any ground to consider herself humiliated or injured because she is required to give her consent in advance to measures accepted by all the great commercial Powers in regard to questions of such great importance to the welfare of the native populations and to the maintenance of civilization and peace.

V.

The Allied and Associated Powers consider that all the possessions and property of the German State in the territory of Kiaochow must be treated on the same footing as State property in all the other German overseas possessions, and be transferred without compensation. In this connection they recall the fact that Kiaochow, which was unjustly torn from China, has been used by Germany as a military base in pursuance of a policy which in its various manifestations has constituted a perpetual menace to the peace of the Far East. In these circumstances they see no reason why Germany should be compensated for the loss of works and establishments and in general for public property which in the hand of this Power have for the most part been used merely as a means of carrying out its policy of aggression.

In so far as concerns the railway and the mines that go with it, referred to in Article 156, para. 2, the Allied and Associated Powers hold that these should be considered as public property. They would, however, be prepared, in the event of Germany adducing proof to the contrary, to apply to such private rights as German nationals may be able to establish in the matter, the general principles laid down in the Conditions of Peace in respect of compensation of this character.

VI.

The Allied and Associated Powers are anxious that no misunderstanding should exist with regard to the disposition of the property of German missions in territory belonging to them or of which the government is entrusted to them in accordance with the Treaty. They have, therefore, explicitly stated that the property of these missions will be handed over to boards of trustees appointed by or approved by the Governments and composed of persons holding the faith of the mission whose property is involved.

PART V.

MILITARY, NAVAL AND AIR CLAUSES.

SECTION I.

Military Clauses.

I.

The Allied and Associated Powers wish to make it clear that their requirements in regard to German armaments were not made solely with the object of rendering it impossible for Germany to resume her policy of military aggression. They are also the first steps towards that general reduction and limitation of armaments which they seek to bring about as one of the most fruitful preventives of war, and which it will be one of the first duties of the League of Nations to promote.

II.

They must point out, however, that the colossal growth in armaments of the last few decades was forced upon the nations of Europe by Germany. As Germany increased her power, her neighbours had to follow suit unless they were to become impotent to resist German dictation or the German sword. It is therefore right, as it is necessary, that the process of limitation of armaments should begin with the nation which has been responsible for their expansion. It is not until the aggressor has led the way that the attacked can safely afford to follow suit.

III.

The Allied and Associated Powers cannot agree to any alteration in principle of the conditions laid down in Articles 159-180, 203-208 and 211-213 of the Treaty.

Germany must consent unconditionally to disarm in advance of the Allied and Associated Powers; she must agree to immediate abolition of universal military service; a definite organization and scale of armament must be enforced. It is essential that she should be subjected to special control as regards the reduction of her armies and armaments, the dismantling of her fortifications, and the reduction, conversion or destruction of her military establishments.

IV

Whilst the Allied and Associated Powers regard the strict maintenance of these principles as a sacred duty and refuse in any way to depart from them, they are nevertheless willing in the interests of general peace and the welfare of the German people to admit the following modifications of the Military Clauses, Articles 159-180 of the Treaty.

(a) Germany will be allowed to reduce her Army more gradually than at present stipulated, i.e. to a maximum of 200,000 men within 3 months; at the end of that 3 months and every subsequent 3 months a Conference of Military experts of the Allied and Associated Powers shall fix the strength of the German Army for the coming three months, the object being to reduce the German Army to the 100,000 men stipulated in the Treaty as soon as possible, and in any case by the expiration of the Law of the Reichswehr, i.e., by 31st March, 1920.

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(b) The number of formations, officers or persons in the position of officers, and civilian personnel shall be in the same ratio to the total effectives laid down in (a) above as that laid down in the Treaty.

Similarly, the number of guns, machine guns, trench mortars, rifles, and the amount of ammunition and equipment shall bear the same ratio to the total amount allowed in (a) above as that laid down in the Treaty.

(c) No deviation from the organization in Armament laid down in the present Treaty can be permitted until Germany is admitted to the League of Nations, which may then agree to such modifications as seem desirable.

(d) All the remaining German war material shall be handed over in the period fixed by the Treaty.

The periods laid down in the Treaty for the demolition of fortifications will be modified as follows:—

“All fortified works, fortresses and land forts situated in German territory west of a line traced 50 kilometres east of the Rhine shall be disarmed and dismantled.

“Those fortresses which are situated in territory not occupied by the Allied Armies shall be disarmed in a period of two months, and dismantled in a period of six months.

“Those which are situated in territory occupied by the Allied Armies shall be disarmed and dismantled within the time limits which shall be fixed by the Allied High Command; the necessary labour being furnished by the German Government.”

V.

With the amendments and modifications enumerated in paragraph IV above, the Military Clauses (Article 159-180) and those affecting the carrying out of the terms therein laid down (Articles 203-208 and 211-213) are to be maintained.

SECTION II.

NAVAL CLAUSES.

The conditions and proposals of the German Delegates relative to the Naval Clauses cannot be entertained. All these Articles have been carefully framed and must be accepted unconditionally. They are based on the desire for a general limitation of the armaments of all nations and at the same time leave to Germany the requisite naval force for self-protection and police duties.

No negotiations are necessary with regard to this portion of the Treaty, prior to its signature. All details can be settled by the Naval Commission to be appointed subsequently in accordance with Section IV of Part V.

There are no financial measures contemplated by the Allied and Associated Powers in connection with the surrender of any of the warships mentioned in the draft Treaty; they are required to be handed over unconditionally.

PART VI.

PRISONERS OF WAR.

The Allied and Associated Powers have nothing to add to their note of May 20, 1919, on this subject.

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PART VII.

I.

THE RESPONSIBILITY OF GERMANY FOR THE WAR.

The German Delegation have submitted a lengthy Memorandum in regard to the responsibility of Germany for the initiation of the war. The burden of the argument in this document is that at the very last moment of the crisis the German Government endeavoured to induce moderation on the part of an ally to whom she had previously given complete liberty of action, and that it was the mobilization of the Russian army which finally made inevitable the outbreak of the general war.

The Allied and Associated Powers, however, wish to make it clear that their views as to the responsibility of the war is not based merely upon an analysis of the events which took place in the last critical hours of the crisis which preceded the actual outbreak of hostilities. They note that the German memorandum is largely occupied with the discussion of one aspect of the European situation in the years preceding the outbreak of the war. The observations contained in it and the documents quoted will no doubt afford valuable material for the historian of the future but they cannot see that any new facts are brought to light or that any new interpretation is given of facts already known which would in the least modify the conclusions already arrived at. They are the more inclined to take this view as they observe that there are considerable discrepancies between the three versions of this document which they have received. There is nothing in it which shakes their conviction that the immediate cause of the war was the decision, deliberately taken by those responsible for German policy in Berlin and their confederates in Vienna and Budapest, to impose a solution of a European question upon the nations of Europe by threat of war and, if the other members of the concert refused this dictation, by war itself instantly declared.

The German memorandum indeed admits without reserve the accuracy of this view. The Serbian question was not, and never could have been, purely an Austro-Hungarian question. It affected Germany. It affected all the Great Powers. It was essentially a European question, for it involved the control of the Balkans, and therefore concerned the peace, not only of the Balkans, but of the whole of Europe. It was impossible to isolate it and the authors of the ultimatum of July 23 knew that it could not be isolated.

If, therefore, the German and Austro-Hungarian Governments had desired a pacific settlement, they would have consulted with the other Powers whose interests were vitally affected, and only taken action after making the utmost endeavour to arrive at an agreed solution. Yet the Memorandum of the German Delegation explicitly admits that the German Government authorised its ally to endeavour to solve the Austro-Serbian question on its own initiative and by war. "On the strength," it says, "of statements received from the Cabinet in Vienna, the German Government considered an Austrian military expedition against Serbia essential for the preservation of peace. The German Government considered itself obliged to take the risk of Russian intervention with the resultant *casus foederis*. She gave her ally Austria a completely free hand as to the nature of the demands to be made by her on Serbia. When the ultimatum was followed by an answer which appeared to Germany herself sufficient to justify the abandonment of the expedition after all, she indicated this view to Vienna."

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The later action of the German Government was perfectly consistent with this initial policy. It supported the rejection, without consideration, of the extraordinary concessions made by Serbia in response to the insolent and intolerable demands of the Austro-Hungarian Government. It supported the mobilisation of the Austro-Hungarian army and the initiation of hostilities, and steadily rejected every proposal for conference, conciliation or mediation, though it knew that once mobilisation and military action were undertaken by any of the Great Powers it inevitably compelled a response from all the rest and so hourly reduced the chances of pacific settlement. Only at the eleventh hour, when all chance of avoiding war had practically vanished, did the German Government counsel moderation on her ally. Even on this single point in Germany's favour, the Memorandum of the German Delegates is forced to admit a doubt. "The reason," it says, "for the delay in the reply of the Cabinet at Vienna to this proposal is not known to us," and then they go on to say in words which are underlined, "This is one of the most vital points which still require elucidation." May it not be that, as was not uncommon with the German Foreign Office, unofficial communications or a previous understanding between those who had the real power, differed somewhat from the message which travelled over the official wires.

The German Government would now throw the blame for the failure of the attempts to procure peace on the mobilisation of the Russian army. They ignore that this was the immediate and necessary consequence of the mobilisation of the Austrian army, and the declaration of war on Serbia, both authorised by Germany. These were the fatal acts by which the decision was taken out of the hands of the statesmen and control transferred to the military. It is on the German statesmen that equally rests the responsibility for the hasty declaration of war on Russia, when Austria herself was apparently hesitating, and for the declaration of war on France. So great was the haste of the German Government that when no plausible reason could be found, allegations were invented, the complete falsity of which has long ago been demonstrated. The German Delegation now admits that the German Government "did not take the trouble to verify," the reported facts which they published as justifying their declaration of war.

After reading what the German Delegation has to say in self-defence, the Allied and Associated Powers are satisfied that the series of events which caused the outbreak of the war was deliberately plotted and executed by those who wielded the supreme power in Vienna, Budapest and Berlin.

The history of the critical days of July, 1914, however, is not the sole ground upon which the Allied and Associated Powers consider that the responsibility of Germany for the war must be tried. The outbreak of the war was no sudden decision taken in a difficult crisis. It was the logical outcome of the policy which had been pursued for decades by Germany under the inspiration of the Prussian system.

The whole history of Prussia has been one of domination, aggression and war. Hypnotised by the success with which Bismarck, following the tradition of Frederick the Great, robbed the neighbours of Prussia and forged the unity of Germany through blood and iron, the German people after 1871 submitted practically without reserve to the inspiration and the leadership of their Prussian rulers.

The Prussian spirit was not content that Germany should occupy a great and influential place in a Council of equal nations to which she was entitled, and which she had secured. It could be satisfied with nothing less than supreme and autocratic power. At a time, therefore, when the western nations were seriously endeavouring to limit armaments, to substitute friendship for rivalry in international affairs, and to lay the foundation of a new era in which all nations should co-operate in amity in the conduct of the world's affairs, the rulers of Germany were restlessly sowing suspicion and hostility among all her neighbours, were conspiring with every element of unrest in every land, and were steadily increasing Germany's armaments and consolidating

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her military and naval power. They mobilised all the resources at their command, the universities, the press, the pulpit, the whole machinery of governmental authority to indoctrinate their gospel of hatred and force, so that when the time came the German people might respond to their call. As a result in the later years of the 19th century, and during the 20th century, the whole policy of Germany was bent towards securing for herself a position from which she could dominate and dictate.

It is said that Germany developed her armaments in order to save herself from Russian aggression. Yet it is significant that no sooner was Russia defeated by Japan in the Far East and almost paralysed by the subsequent internal revolution than the German Government immediately redoubled its attempts to increase its armaments and to domineer over its neighbours under the threat of war. To them the collapse of Russia was not an occasion to try to reduce armaments and bring peace to the world in concert with the Western Powers. It was the opportunity to extend their own power. Further the whole point of German organisation was aggressive. Their scheme of railways, both east and west, their order of mobilisation, their long concocted plan to turn the flank of France by invading Belgium, the elaborate preparation and equipment, both within and beyond her borders, as revealed on the outbreak of the war,—all had aggression and not defence in view. The military doctrine that Germany could only be defended by springing first upon her neighbours was the excuse for demanding a military organization and a strategic plan which, when the time came, would enable them to smash all resistance to the ground and leave Germany the undisputed master both in the East and the West.

It is not the purpose of this Memorandum to traverse the diplomatic history of the years preceding the war, or to show how it was that the peace-loving nations of Western Europe were gradually driven, under a series of crisis provoked from Berlin, to come together in self-defence. Autocratic Germany, under the inspiration of her rulers, was bent on domination. The nations of Europe were determined to preserve their liberty. It was the fear of the rulers of Germany lest their plans for universal domination should be brought to nought by the rising tide of democracy, that drove them to endeavour to overcome all resistance at one stroke by plunging Europe in universal war. The view of the Allied and Associated Powers could not indeed be better expressed than in the words of the German Memorandum itself: "The real mistakes of German policy lay much further back. The German Chancellor who was in office in 1914 had taken over a political inheritance which either condemned as hopeless from the start his unreservedly honest attempt to relieve the tension of the internal situation, or else demanded therefore a degree of statemanship, and above all a strength of decision, which on the one hand he did not sufficiently possess, and on the other, he could not make effective in the then existing conditions of German policy."

In view, therefore, of the Allied and Associated Powers Germany's responsibility is far wider and far more terrible than that to which the Memorandum of the German Delegation would seek to confine it. Germany, under the inspiration of Prussia, has been the champion of force and violence, deception, intrigue and cruelty in the conduct of international affairs. Germany for decades has steadily pursued a policy of inspiring jealousies and hatred and of dividing nation from nation in order that she might gratify her own selfish passion for power. Germany has stood athwart the whole current of democratic progress and international friendships throughout the world. Germany has been the principal mainstay of autocracy in Europe. And in the end, seeing that she could attain her objects in no other way, she planned and started the war which caused the massacre and mutilation of millions and the ravaging of Europe from end to end.

The truth of the charges thus brought against them the German people have admitted by their own revolution. They have overturned their Government because they have discovered that it is the enemy of freedom, justice and equality at home. That

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same Government was no less the enemy of freedom, justice and equality abroad. It is useless to attempt to prove that it was less violent and arrogant and tyrannical in its foreign than it was in its internal policy, or that the responsibility for the terrible events of the last five years does not lie at its doors.

II.

PENALTIES.

The Allied and Associated Powers have given consideration to the observations of the German Delegation in regard to the trial of those chargeable with grave offences against international morality, the sanctity of treaties and the most essential rules of justice. They must repeat what they have said in the letter covering this Memorandum, that they regard this war as a crime deliberately plotted against the life and liberties of the peoples of Europe. It is a war which has brought death and mutilation to millions and has left all Europe in terrible suffering. Starvation, unemployment, disease stalk across that continent from end to end, and for decades its peoples will groan under the burdens and disorganisation the war has caused. They therefore regard the punishment of those responsible for bringing these calamities on the human race as essential on the score of justice.

They think it not less necessary as a deterrent to others who, at some later date, may be tempted to follow their example. The present Treaty is intended to mark a departure from the traditions and practices of earlier settlements which have been singularly inadequate in preventing the renewal of war. The Allied and Associated Powers indeed consider that the trial and punishment of those proved most responsible for the crimes and inhuman acts committed in connection with a war of aggression, is inseparable from the establishment of that reign of law among nations which it was the agreed object of the peace to set up.

As regards the German contention that a trial of the accused by tribunals appointed by the Allied and Associated Powers would be a one-sided and inequitable proceeding, the Allied and Associated Powers consider that it is impossible to entrust in any way the trial of those directly responsible for offences against humanity and international right to their accomplices in their crimes. Almost the whole world has banded itself together in order to bring to nought the German plan of conquest and dominion. The tribunals they will establish will therefore represent the deliberate judgment of the greater part of the civilised world. They cannot entertain the proposal to admit to the tribunal the representatives of countries which have taken no part in the war. The Allied and Associated Powers are prepared to stand by the verdict of history as to the impartiality and justice with which the accused will be tried.

Finally, they wish to make it clear that the public arraignment under Article 227 framed against the German ex-Emperor has not a juridical character as regards its substance but only in its form. The ex-Emperor is arraigned as a matter of high international policy, as the minimum of what is demanded for a supreme offence against international morality, the sanctity of treaties and the essential rules of justice. The Allied and Associated Powers have desired that judicial forms, a judicial procedure and a regularly constituted tribunal should be set up in order to assure to the accused full rights and liberties in regard to his defence, and in order that the judgment should be of the most solemn judicial character.

The Allied and Associated Powers add that they are prepared to submit a final list of those who must be handed over to justice within one month of the coming into force of the Treaty.

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PART VIII.

REPARATION.

The Allied and Associated Powers, consistently with their policy already expressed, decline to enter into a discussion of the principles underlying the Reparation Clauses of the Conditions of Peace, which have been prepared with scrupulous regard for the correspondence leading up to the Armistice of November 11th, 1918, the final memorandum of which, dated 5th November, 1918, contains the following words:

"Further, in the conditions of Peace laid down in his address to Congress of the 8th January, 1918, the President declared that the invaded territories must be restored as well as evacuated and freed, and the Allied Governments feel that no doubt ought to be allowed to exist as to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea, and from the air."

To the extent that the German reply deals with practical phases of the execution of the principles enunciated in the Conditions of Peace, it appears to proceed on the basis of a complete misapprehension, which is the more difficult to understand as the inferences drawn and the statements made are wholly at variance with both the letter and the spirit of the Treaty Clauses. For purposes of clarification, however, and in order that there may be no possible ground for misunderstanding, the Allied and Associated Powers submit the following observations:

The vast extent and manifold character of the damage caused to the Allied and Associated Powers in consequence of the war has created a reparation problem of extraordinary magnitude and complexity, only to be solved by a continuing body, limited in personnel and invested with broad powers to deal with the problem in relation to the general economic situation.

The Allied and Associated Powers, recognising this situation, themselves delegate power and authority to a Reparation Commission. This Reparation Commission is, however, instructed by the Treaty itself so to exercise and interpret its powers as to ensure, in the interest of all, an early and complete discharge by Germany of her reparation obligations. It is also instructed to take into account the true maintenance of the social, economic and financial structure of a Germany earnestly striving to exercise her full power to repair the loss and damage she has caused.

The provisions of Article 241, by which the German Government is to invest itself with such powers as may be needed to carry out its obligations, are not to be misconstrued as giving the Commission powers to dictate the domestic legislation of Germany. Nor does paragraph 12 (b) of Annex II give the Commission powers to prescribe or enforce taxes or to dictate the character of the German budget.

It is only to examine the latter for two specified purposes.

This is necessary in order that it may intelligently and constructively exercise the discretion accorded to it in Germany's interest, particularly by Article 234, with regard to extending the date and modifying the form of payments. The provisions of Article 240 with regard to the supply of information are similar in character and purpose, and there should be little occasion for the exercise of these powers when once the amount of the liability of Germany is fixed, if Germany is in a position to, and does, comply with the schedule of payments which then will have been notified to her and with the specific provisions of the several Annexes relative to reparation in kind. It is further to be observed that the power of modification accorded by the said Article 236 is expressly designed to permit of a modification in Germany's interest of a schedule of payments which events may demonstrate to be beyond Germany's reasonable capacity.

The Allied and Associated Powers vigorously reject the suggestion that the Commission, in exercising the power conferred by Article 240 and by paragraphs 2, 3 and 4 of Annex IV, might require the divulgence of trade secrets and similar confidential data.

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In short the observations of the German Delegation present a view of this Commission so distorted and so inexact that it is difficult to believe that the clauses of the Treaty have been calmly or carefully examined. It is not an engine of oppression or a device for interfering with German sovereignty. It has no forces at its command; it has no executive powers within the territory of Germany; it cannot, as is suggested, direct or control the educational or other systems of the country. Its business is to fix what is to be paid; to satisfy itself that Germany can pay; and to report to the Powers, whose Delegation it is, in case Germany makes default. If Germany raises the money required in her own way, the Commission cannot order that it shall be raised in some other way; if Germany offers payment in kind, the Commission may accept such payment, but, except as specified in the Treaty itself, the Commission cannot require such a payment.

The German Observations appear to miss the point that the Commission is directed to study the German system of taxation for the protection of the German people no less than for the protection of their own. Such study is not inquisitorial, for the German system of taxation is not an object of curiosity to other Powers, nor is a knowledge of it an end in itself; but if any plea of inability which the German Government may advance is to be properly considered, such a study is necessary.

The Commission must test whether a sincere application is being given to the principle, accepted in the Observations, "that the German taxation system should impose in general on the taxpayer at least as great a burden as that prevailing in the most heavily burdened of the States represented on the Reparation Commission." If the German resources are to be properly weighed, the first subject of inquiry will be the German fiscal burden.

It is understood that the action necessary to give effect to the provisions of Annex IV, relative to reparation in kind, will be taken by Germany on its own initiative, after receipt of notification from the Reparation Commission.

The provisions of the Treaty are in no wise incompatible with the creation by Germany of a Commission which will represent Germany in dealings with the Reparation Commission and which will constitute an instrumentality for such co-operation as may be necessary. The Treaty specifically and repeatedly provides opportunities for the German Government to present facts and arguments with respect to claims and modes of payment within the limits of the principles and express provisions of the Treaty. This may be done through a commission and no reason is perceived why such a commission could not work in harmony with the Reparation Commission. Certainly this is greatly to be desired. The Allied and Associated Powers are therefore ready to agree to such a procedure as the following:—

Immediately after the Treaty is signed, Germany may present, and the Allied and Associated Powers will receive and examine, such evidence, estimates and arguments as she may think fit to present. Such documents need not be final but may be presented to the Commission subject to corrections and additions.

At any time within four months of the signature of the Treaty, Germany shall be at liberty to submit, and the Allied and Associated Powers will receive and consider, such proposals as Germany may choose to make. In particular, proposals will be received on the following subjects and for the following purposes. Germany may offer a lump sum in settlement of her whole liability, as defined in Article 232, or in settlement of her liability under any of the particular categories which have been decided upon and laid down. Germany may offer, either to carry out by her own means the restoration, and reconstruction, whether in part or in its entirety, of one of the devastated areas, or to repair under the same conditions certain classes damages in particular regions or in all the regions which have suffered from the war. Germany may offer labour, materials or technical service for use in such work, even though she does not execute the work herself. She may suggest any practicable plan, category

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by category or for the reparations as a whole, which will tend to shorten the period of enquiry and to bring about a prompt and effectual conclusion.

Without making further specifications, it may be said in a word that Germany is at liberty to make any suggestion or offer of a practical and reasonable character for the purposes of simplyfying the assessment of the damage, eliminating any question or questions from the scope of the detailed enquiry, promoting the performance of the work and accelerating the definition of the ultimate amount to be paid.

The necessary facilities for making reliable estimates of the offers to be presented by her will be afforded to Germany at reasonable times. Three conditions only are imposed upon the tender of these proposals. Firstly, the German authorities will be expected before making such proposals to confer with the representatives of the Powers directly concerned. Secondly, such offers must be unambiguous, and must be precise and clear. Thirdly, they must accept the categories and the reparation clauses as matters settled beyond discussion. The Allied and Associated Powers will not entertain arguments or appeals directed to any alteration.

Within two months thereafter, the Allied and Associated Powers will, so far as may be possible, return their answer to any proposals that may be made. It is imposible to declare in advance that they will be accepted, and, if accepted, they may be subjected to conditions which can be discussed and arranged. The Allied and Associated Powers, however, declare that such proposals will be seriously and fairly considered; no one could be better pleased than they if, in the result, a fair, a speedy and a practical settlement were arrived at. The questions are bare questions of fact, namely, the amount of the liabilities, and they are susceptible of being treated in this way. Beyond this, the Allied and Associated Powers cannot be asked to go.

Even if no settlement were arrived at, it must be evident that the early production of the German evidence would greatly abbreviate the enquiry and accelerate the decisions. The German authorities have had long occupation of a large part of the damaged areas and have been over the ground, forwards and backwards, within the last twelve or fifteen months. The Allied and Associated Powers have as yet had no access to this mass of material.

It is obvious that, if the class of damages done in the devastated areas can be dealt with in this fashion, the liability under the other categories can be quickly established, for it depends on statistics and particulars of a far simpler character. By giving a satisfactory covenant themselves to execute the work of rebuilding, the Germans could at once dispose of the only difficult or long subject of inquiry.

The Allied and Associated Powers have to remark that in the Observations submitted the German Delegation has made no definite offer at all but only vague expressions of willingness to do something undefined. A sum of 100,000,000,000 marks (gold) is indeed mentioned, and this is calculated to give the impression of an extensive offer, which upon examination it proves not to be. No interest is to be paid at all. It is evident that till 1927 there is no substantial payment but only the surrender of military material and the devolution upon other Powers of large portions of Germany's own debt. Thereafter a series of undefined instalments is to be agreed which are not to be completed for nearly half a century. The present value of this distant prospect is small, but it is all that Germany tenders to the victims of her aggression in satisfaction for their past sufferings and their permanent burdens.

The Allied and Associated Powers will, however, make a declaration on another point, as follows: The resumption of German industry involves access by the German people to food supplies and by the German manufacturers to the necessary raw materials and provision for their transport to Germany from overseas. The resumption of German industry is an interest of the Allied and Associated Powers as well as an interest of Germany. They are fully alive to this fact and therefore declare that they will not withhold from Germany commercial facilities without which this resumption cannot take place, but that, subject to conditions and within limits,

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which cannot be laid down in advance, and subject also to the necessity for having due regard to the special economic situation created for Allied and Associated countries by German aggression and the war, they are prepared to afford to Germany facilities in these directions for the common good.

Meanwhile, the draft Treaty must be accepted as definitive and must be signed. The Allied and Associated Powers cannot any longer delay to assure their security. Germany cannot afford to deny to her populations the peace which is offered to them. The Reparation Commission must be constituted and must commence its task. The only question open will be how best to execute the provisions of the Treaty.

The foregoing should suffice to demonstrate the reasonableness of the conditions under which Germany is to discharge her reparation obligations, and how utterly unfounded are the criticisms in the German reply. These are, indeed, explicable only on the theory that the German plenipotentiaries have read into the Conditions of Peace, in clear defiance of their express terms, an intention which is not there, but which it would be not unnatural to see displayed by victorious nations which have been the victims of cruelty and devastation on a vast and premeditated scale. The burdens of Germany undeniably are heavy, but they are imposed under conditions of justice by peoples whose social well-being and economic prosperity have been gravely impaired by wrongs which it is beyond the utmost power of Germany to repair.

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PART IX.

FINANCIAL CLAUSES.

Before examining each of the articles on which the German Delegation has presented observations, the Allied and Associated Powers wish to recall the reply made by M. Clemenceau in their name on May 22, to a note from Count Brockdorff-Rantzau dated May 13, and especially Paragraph XIII of this letter:

"All the nations of Europe have suffered losses, they are bearing and will still bear for a long time burdens almost too heavy for them. These burdens and these losses have been imposed on them by the aggression of Germany. It is just that Germany, the primary cause of these calamities, should repair them to the full extent of her power. Her sufferings will be the result, not of the Peace conditions, but of the acts of those who provoked and prolonged the war. The authors of the war cannot escape its just consequences."

Germany must accept burdens and very heavy burdens being laid on her; financial obligations and guarantees taken by the Allied and Associated Powers to obtain the payment of their claims.

Germany will be able to meet her financial obligations either by means of property and resources that she possesses within the Empire, or by means of property that she possesses abroad.

Within the Empire the Allied and Associated Powers have claimed a charge only on the property and resources of the Empire and the German states. Their right in this regard, resulting from the financial clauses, has been limited as far as possible, and an effort has been made to avoid giving it any vexatious character. Finally, all exceptions compatible with the rights of the Allied and Associated Powers have been granted, and these will permit the economic interests and credit of Germany to be protected as far as possible.

Outside the Empire, the Allied and Associated Powers have abstained from claiming the transfer of German property and resources in neutral countries; they ask only the cession of property which is not indispensable to Germany's existence and which can be given up without causing any profound disturbance in her internal life.

In a word in view of the burdens that Germany must assume, the financial provisions adopted by the Allied and Associated Powers spare the essential interests of Germany as far as possible.

1. The Allied and Associated Powers again assert their right to obtain the payment of reparations and other charges resulting from the Treaty, in priority to the settlement of all other debts of the Empire or of the German States.

Nevertheless they consider it proper to provide, in certain special cases, for the granting of exceptions to the general principle thus laid down, and they are ready to insert at the beginning of Article 248 the following sentence:

"Subject to such exceptions as the Reparation Commission may approve a first charge."

This new stipulation will permit measures to be taken with a view to protecting German's credit as far as possible.

2. The provision prohibiting the export of gold is a guarantee for the Allied and Associated Powers; the latter have not, however, intended to use their right without reserve, and they have provided that Germany may export gold after receiving authorisation from the Reparation Commission.

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The latter will therefore have power to grant to the Reichsbank, whenever it sees fit, "the right of export, when it is a question of guarantees that this bank has furnished and that it could not furnish by any other means."

3. The military occupation constitutes for the Allied and Associated Powers one of the essential guarantees which they require; there can therefore be no argument about it. The cost of maintenance of armies of occupation has always been borne by the nation subject to the occupation; Germany applied this principle in 1871 when she imposed on France the cost of the German armies of occupation (Convention of Ferrières, March 11, 1871).

4. No distinction can be made between the war material lost by the enemy in the course of military operations and the war material surrendered in execution of an armistice which terminates these operations. It is just therefore that the Reparation Commission shall not credit Germany with the value of material thus surrendered.

5. The provision inserted in Paragraph 2, of Article 251, grants, in favour of the food supply of Germany, an exception to the order of priority established by Paragraph 1 of the same article.

Moreover, it applies solely to the food supply effected through state organizations, since no charge has been established upon the property of the German nationals.

This clause is established in favour of Germany, and if the Allied and Associated Powers have reserved a right of control over the German food supply effected through state organizations, it is because it appears impossible to consent to so important an exception to the principle laid down in Article 248, without reserving control.

6. The partition of the pre-war debt of the German Empire and of the German States will be made in proportion to the contributory power of the various ceded territories. The determination of this contributory power is obviously very delicate, in view of the diversity of fiscal systems in the different German confederated states. Therefore it has not been thought desirable to settle this question at present, and it has been left to the Reparation Commission to estimate which of Germany's revenues will make it possible to compare the resources of the ceded territories and those of the Empire.

Moreover, the Allied and Associated Powers can not consider the assigning of a part of Germany's war debt to the liberated territories; such a division would in fact make the Powers receiving these territories support a part of Germany's war debt, which is inadmissible.

7. It cannot be contemplated that Poland should bear either directly or indirectly the burden of a debt contracted to extend Prussian influence at the expense of Polish rights and traditions.

8. The German colonies, having deficits, cannot possibly assume a part of the German debt. It is to be noted moreover that a large part of the expenses incurred in the German colonies was military and unproductive in character.

It would be unjust under these conditions to demand that the State made a mandatory by the League of Nations should assume a debt that the colony cannot support.

9. The Allied and Associated Powers have a right, after the events that have happened since 1914, to demand that Germany be no longer intimately involved in their financial and economic life, nor in that of her former Allies, nor in that of Russia.

Moreover, it seems almost certain that Germany, in order to meet the burden of reparations, will find herself obliged to alienate the greater part of the foreign securities held by her nationals. The protection of German holders, whose interests will by this fact be very much reduced, would no longer justify German participation in international organizations.

10. The German Delegation has presented in Annex II of these remarks, as well as in a special note of May 29, 1919, a certain number of observations.

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The first relate to the transfer of sums deposited in Germany in the name of the Ottoman Debt, of the Imperial Ottoman Government, or of the Austro-Hungarian Government.

The details furnished by the German Delegation on certain transfers effected in Germany necessitate two modifications of drafting, but the Allied and Associated Powers maintain the principles of the article in question.

In the first place, the Allied and Associated Powers have not lost sight of the fact that the obligations assumed by the German Government toward Turkey has for its counterpart the engagement by the Turkish Government to reimburse Germany later for the sums advanced by her. Article 259 must be compared with Article 261. The latter provides that the German credit shall be transferred to the Allied and Associated Powers.

In the second place, the Allied and Associated Powers have in their possession evidence showing under what conditions transfers of gold and silver were made in November, 1918, to the Turkish Ministry of Finance.

In the third place, they are of the opinion that if "no sum in gold or any pledge has been transferred to the German Government nor to the banks concerned, for the advances that Austria-Hungary has received through the medium of German banks," the provision in paragraph 5 will be without effect, and consequently it cannot justify any protest on the part of the German Delegation.

The other observations relate to the renunciation by Germany of the Treaties of Bucarest and Brest-Litovsk.

The German Delegation claims the annulment of the engagements incumbent on Germany by reason of these Treaties, as well as of the advantages stipulated in her favour.

These observations are not well founded.

In fact, Article 292, which the German Financial Delegation seems to have overlooked, abrogates purely and simply these Treaties, of which moreover the German Delegation declares (General Remarks, Part VII) that "there can be no further argument," since "Germany has already renounced the Treaty of Brest-Litovsk and the Peace of Bucarest was never ratified."

The Allied and Associated Powers have, moreover, searched in vain in the Peace of Bucarest for "engagements made by Germany."

11. The Allied and Associated Powers are of the opinion that the cession of the rights and interests of German nationals in every enterprise of public utility and in every concession in Russia and in the countries formerly allies of Germany is essential for the purpose of protection and reparation.

The Allied and Associated Powers have been able, moreover, to appreciate, in the course of the war, what use Germany was capable of making of the control she possessed over her allies and over Russia, and they consider that they have the right to withdraw from Germany all devolution of public authority in these countries.

12. The Allied and Associated Powers reserve the right to demand from Germany the transfer of all her credits on Austria, Hungary, Bulgaria and Turkey.

But Article 243 provides that the amount of these credits shall be entered to Germany's account under the category of reparations at such value as the Reparation Commission shall deem suitable.

13. The obligation to pay in specie cannot be interpreted as an obligation to pay in actual gold.

On the other hand, the Allied and Associated Powers cannot admit that Germany should pay "in the currency of the country in which the injury has been committed."

The countries which have suffered heavy damage must, to rebuild their ruins, have recourse to the aid of the Allied and Associated countries, and will have to incur heavy expenditures abroad; it would be inadmissible not to leave them the choice of claiming payment in the currency of which they may stand in need.

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Moreover, the bonds to be issued by Germany on account of the sums due for reparation must have a very wide market, and their interest must be payable in several currencies.

Finally, whenever it is a question of defining an obligation to pay, it must be done in a fixed currency.

14. In a note of May 29, 1919, the German Delegation has made certain observations relative to Article 263.

The product of the sale of Sao Paolo Coffee at Trieste having been deposited in the Bleichröder Bank, the Allied and Associated Powers cannot accept the suggestion of the German Delegation that these sums should not be included in Article 263.

At the same time the Allied and Associated Powers recognize that the words "with interest at 5 per cent from the day of deposit" should be changed as follows: "with interest at the rate or rates agreed upon."

The Allied and Associated Powers are willing, moreover, to omit the word "compulsory" from Article 263.

The German Government having refused to authorize the withdrawal of these sums and having agreed to return them "intact" at the end of the war, the Allied and Associated Powers must insist that the reimbursement be effected at the rates of exchange existing at the time that the deposits were made.

PART X.

ECONOMIC CLAUSES.

I.

COMMERCIAL POLICY.

The principles which the Allied and Associated Powers desire to bring into application when the world returns to normal conditions are those which President Wilson has enunciated on various occasions in his speeches and which are embodied in Article 23 (*e*) of the Covenant of the League of Nations.

But it is clear that the pronouncements of President Wilson relative to equality of trade conditions must be interpreted as relating to the permanent settlement of the world, and can only be regarded as applicable to a condition of things in which the League of Nations is fully constituted, and the world has returned to normal conditions of trade. In the meantime the establishment of a purely transitory regime necessarily differing from that contemplated in a final settlement is in no way in conflict with such ideas.

During this period "the equitable treatment for the commerce of all members of the League" requires that Germany should temporarily be deprived of the right she claims to be treated on a footing of complete equality with other nations.

The illegal acts of the enemy have placed many of the Allied States in a position of economic inferiority to Germany, whose territory has not been ravaged, and whose plant is in a condition enabling manufactures and trade to be at once resumed after the war. For such countries, a certain freedom of action during the period of transition is vitally necessary, but it is also necessary that the Allied and Associated Powers should in the meantime be safeguarded from the effects of special preferences or discriminations granted by Germany to an Allied or Associated country or to any other country. Hence during the transitory period formal reciprocity is not practicable; and it is only equitable that the Allied and Associated Powers should have for such period greater freedom to regulate their commercial exchanges than is accorded to the authors of the aggression. If it were otherwise, Germany would reap the benefit of the criminal acts which she committed in the territories she occupied with the object of placing her adversaries in a condition of economic inferiority.

It is, therefore, a consideration for justice which has led the Allied and Associated Powers to impose on Germany, for a minimum period of five years, non-reciprocal conditions in the matter of commercial exchanges. Articles 264 to 267, 323 and 327, drawn up on this basis, are measures of reparation, the duration of which will be determined by the League of Nations.

After the necessary period of transition is over, and when a reformed Germany is admitted to membership of the League of Nations, the Allied and Associated Powers will be able to co-operate with her in arriving at a more permanent arrangement for the establishment of an equitable treatment for the commerce of all nations.

No exception is taken by the German Delegation to the general principle that during a transition period special arrangements are necessary for the products of territories detached from Germany. In the absence of detailed criticism, it must be assumed that no serious objection is entertained to the provisions on this subject which are contained in the Treaty of Peace.

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The necessity of meeting the special conditions of the period of transition has similarly inspired the provision ensuring the application during a period of three years to imports of certain products from Allied and Associated countries of the most favourable rates of the German tariff which were in force in 1914. In this matter certain products, the output of which, in countries bordering on Germany, was specially adjusted with reference to German needs, are temporarily assured of their former market.

In order to enable Germany to establish such customs tariffs as she may consider necessary, the Allied and Associated Powers have limited to six months the period for which she is obliged to maintain generally the most favourable rates of customs duty which were in force for imports into Germany on the 31st July, 1914. Such a period is absolutely necessary in order to avoid the economic disturbance which an immediate change of tariff conditions would cause.

II.

TREATIES.

The general principles which underlie Section II of Part X of the Conditions of Peace explain the terms thereof.

The Allied and Associated Powers are certainly of the opinion that multilateral and bilateral treaties between people must exist, in times of peace, so that the principles of international law may be enforced and normal international relations maintained. They have therefore aimed at reapplying all multilateral treaties which seemed to them to be compatible with the new conditions arising out of the war.

As regards bilateral treaties, they have reserved for each of the Allied and Associated Powers the right to decide the matter in conformity with the principles of the Treaty of Peace.

But they could not permit the continuance of all the treaties which Germany imposed on her allies, on her temporarily defeated adversaries, and even in certain cases on neutral countries, with a view to securing particularly favourable conditions and special advantages of all kinds the maintenance of which is incompatible with the re-establishment of the spirit of justice.

This principle necessarily involves the rejection of the theory put forward by Germany in Section VII (Treaties) of the Remarks on the Conditions of Peace, and obviates the necessity for any negotiations on the matter. A general indiscriminate reapplication after the conclusion of Peace of all multilateral and bilateral treaties, even for a short time, cannot be accepted, and it is only just that the Allied and Associated Powers should have reserved and should reserve in the future the right to indicate which of these treaties with Germany they intend to revive or to allow to be revived.

The above applies to the whole of the German remarks on Section II of Part X of the Conditions of Peace, but these remarks call for the following further observations:—

1. The German Delegation seem to consider:—

(a.) That, as a result of errors or omissions, the list of multilateral treaties embodied in Article 282 is incomplete.

(b.) That the contents and meaning of Nos. 7, 17, 19, 20, and 21 of this Article are doubtful.

(c.) Further, that difficulties may arise, as the result of the individual reserves of States, which may limit the application of certain revived multilateral treaties.

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In reply to this, the Allied and Associated Powers would point out that: —

(a.) The German Government may, after the resumption of diplomatic relations with the Allied and Associated Powers, notify to them any subjects covered by non-revived conventions with regard to which they desire new treaties to be concluded or former agreements to be adapted.

(b.) The contents and meaning of the treaties numbered 7, 17, 19, 20 and 21 in Article 282 are not open to any doubt. As regards No. 19 the list of Sanitary Conventions may be completed as follows:—

“Sanitary Conventions of the 3rd December, 1903, and the preceding ones signed on the 30th January, 1892, the 15th April, 1893, the 3rd April, 1894, and the 19th March, 1897.”

(c) Subject to any provisions to the contrary inserted in the Conditions of Peace, reserves which may have been made by the Powers signatory to the Treaty of Peace when they signed or adhered to the multilateral treaties revived by Section II of Part X of the Conditions of Peace, retain their value, such treaties reassuming their operation in the same conditions as before the war. If the conditions of their application are modified, a revision will automatically follow.

2. The German Delegation states that the acceptance by Germany of Articles 283 and 284 is incompatible with the dignity of an independent people.

This opinion is based on a misunderstanding of the meaning and terms of Articles 283 and 284. Germany merely undertakes by Article 283 not to refuse her consent *to the conclusion* by the new States of the special arrangements referred to in the Postal and Telegraphic Unions. It is not stipulated that the text of these arrangements shall be dictated to her and that she must accept such text without discussion. This Article merely prevents a systematic refusal to the conclusion of such arrangements or insistence on requirements which make their conclusion impossible.

Article 284 leaves to Germany the option of participating in the drawing-up of the proposed new Radiotelegraphic Convention. There is nothing to prevent her exercising this option if she so desires.

It is impossible to regard it as an extreme hardship that in matters of this description affecting the peaceful intercourse of European nations Germany should be required to abstain from adopting an attitude which would obstruct international communications. The Allied and Associated Powers are, however, prepared to limit Germany's obligation to be bound by a new Radiotelegraphic Convention to the case where such a Convention is concluded within five years.

3. The German objections to Article 289 appear to arise out of a misunderstanding of its intention. Whilst the Allied and Associated Powers could not agree to the revival of bilateral treaties or of any clauses in bilateral treaties which are not in accordance with the terms of the Peace Treaty itself, they are quite prepared to give an assurance that this provision will not be arbitrarily used for the purpose of splitting up bilateral treaties in such a way that only the obligations should remain on one side and on the other side only the rights. The Allied and Associated Powers will themselves, through the League of Nations, exercise a surveillance to ensure that the provisions of Article 289 are loyally carried out. With this end in view, the Article is modified to read as follows:

“Each of the Allied and Associated Powers, being guided by the general principles or special provisions of the present Treaty, shall notify to Germany the bilateral treaties or conventions which such Allied or Associated Power wishes to revive with Germany.

“The notification referred to in the present Article shall be made either directly or through the intermediary of another Power. Receipt thereof shall be acknowledged in writing by Germany. The date of the revival shall be that of the notification.

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"The Allied and Associated Powers undertake among themselves not to revive with Germany any conventions or treaties which are not in accordance with terms of the present Treaty.

"The notification shall mention any provisions of the said Conventions and Treaties which, not being in accordance with the terms of the present Treaty, shall not be considered as revived.

"In case of any difference of opinion, the League of Nations will be called on to decide.

"A period of six months . . . "

Bilateral treaties between Germany and states which broke off diplomatic relations with her but did not declare war are expressly included in Article 289 on the same basis as treaties with those states which did declare war. There is no universally recognized rule of international law on the subject, it is accordingly open to the Allied and Associated Powers to deal with the matter in the most convenient manner in the Peace Treaty.

4. The treaties referred to in Articles 290 and 292 are essentially among those which Germany concluded by taking undue advantage of the circumstances she herself created, the pressure she exercised, or her temporary military preponderance. Whatever the consequences to Germany of their abrogation, it is impossible to maintain them in force after the conclusion of a Treaty of Peace based upon the principle of justice.

The Allied and Associated Powers cannot admit that the abrogation by Germany of all treaties concluded with her former allies since the 1st August, 1914, and of all treaties concluded before or since that date with Russia and states or governments whose territories formerly made part of Russia and with Roumania, which is required by Articles 290 and 292, must of necessity grievously jeopardise her relations with these states. This abrogation is rendered necessary by the vast political changes which have been brought about by the war and by the fact that all treaties with Russia and states or governments whose territories formerly made part of Russia and with Roumania, concluded since the outbreak of the war, must necessarily be regarded as having been imposed by Germany on unwilling states. The abrogation does not affect Germany's freedom to enter into fresh negotiations with these states for the conclusion of new arrangements suitable to the altered conditions. By this means any serious jeopardy to the resumption of friendly economic relations can easily be avoided.

5. Any special negotiation regarding Articles 291 and 294 is superfluous. The object of these Articles is clear and plain; the Allied and Associated Powers establish equality as between themselves and Germany by obtaining *ipso facto* the benefit of the treatment accorded by her before the 1st August, 1914, to her former allies and of the treatment which for interested motives or for ends inimical to the interests of the Allied and Associated Powers, she may have granted during the war to Powers which have remained neutral.

GERMAN APPENDIX ON SPECIAL LEGAL QUESTIONS.

III

RESUMPTION OF CONSULAR RELATIONS.

The German Delegation requests reciprocity in respect of the right reserved to the Allied and Associated Powers, under Article 279 of the Peace Treaty, to place consuls in German ports and towns. The unilateral character of this stipulation of Article 279 results from the political activities of German Consuls and from the acts committed by the Germans in the territories of certain Allied and Associated powers.

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It should be added, however, that there is nothing in the Article to prevent either the renewal under Article 289 of pre-war Consular Conventions between individual Allied and Associated Powers and Germany, or the conclusion of new arrangements between Germany and such Powers for the admission of German Consular officers into their territory.

IV.

TREATMENT OF PRIVATE PROPERTY.

The question of the treatment of private right is dealt with in the German Delegation's Notes of the 22nd and 29th May and in the Annex No. 1 to their Remarks on the Conditions of Peace. In addition, the general objections set out in these documents are reproduced under different forms in various parts of the remarks.

I.—QUESTIONS OF PRINCIPLE.

The objections of principle to the Conditions of Peace put forward by the German Delegation on this subject may be summed up as follows:—

(a) It is not legitimate to use the private property of German nationals to meet the obligations of Germany.

(b) The settlement of private rights is not made on the principle of reciprocity.

(c) German property should not be used as a guarantee for the liabilities of the States allied to Germany.

(d) The liquidation to be made by the Allied and Associated Powers, in depriving the owner of the free disposition of his property, are of a confiscatory character.

The answers of the Allied and Associated Powers to these objections are as follows:—

(a) As regards the first objection, they would call attention to the clear acknowledgment by Germany of a pecuniary obligation to the Allied and Associated Powers, and to the further circumstance that the immediate resources of Germany are not adequate to meet that obligation. It is the clear duty of Germany to meet the admitted obligation as fully and as promptly as possible and to that end to make use of all available means. The foreign investments of German nationals constitute a class of assets which are readily available. To these investments the Treaty simply requires Germany to make prompt resorts.

It is true that, as a general principle, a country should endeavour to avoid making use of the property of a part of its nationals to meet State obligations; but conditions may arise when such a course becomes necessary. In the present war Allied Powers themselves have found it necessary to take over foreign investments of their nationals to meet foreign obligations and have given their own domestic obligations to the nationals who have been thus called upon to take a share, by this use of their private property, in meeting the obligations of the State.

The time has arrived when Germany must do what she has forced her opponents to do. The necessity for the adoption of this course by Germany is clearly understood by the German Peace Delegates, and is accepted by them in the following passage, quoted textually from their note of the 22nd May:—

“The German Peace Delegation is conscious of the fact that under the pressure of the burden arising from the Peace Treaty on the whole future of German economic life, German property in foreign countries cannot be maintained to its previous extent. On the contrary, Germany, in order to meet her pecuniary obligations, will have to sacrifice this property abroad in wide measure. She is prepared to do so.”

The fundamental objection mentioned above is completely answered by the note itself.

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(b) The German Delegation maintains in its note of the 22nd May that there is only the appearance of reciprocity in regard to the settlement of enemy property, and this objection is developed in the Annex to the Remarks. The objection, however, arises from a confusion between two entirely different matters. As regards exceptional war measures taken in the different countries in respect of enemy property there is a reciprocal provision, these exceptional war measures being confirmed on both sides. Quite a different matter is that of the mode in which enemy property shall be dealt with thereafter. German property, as is admitted in the German note, must serve towards meeting Germany's obligations to the Allies. The compensation to the German property-owner must be made by Germany itself. In this respect there can be no question of reciprocity.

(c) On the question whether German property should serve as a guarantee for the liabilities of the States allied with Germany, it is to be observed, on the one hand, that the actions of Germany and her allies during the war have given rise to complete solidarity between these Powers from the economic standpoint. For instance, negotiations undertaken without scruple between Germany and her allies have resulted in the division between these countries of the proceeds of the Allied and Associated property liquidated contrary to all right in the territories occupied by the German troops. Further, the German authorities have in several ways treated the Allies and Associated Powers as being jointly concerned. For instance, they have seized French credit balances in Belgian banks as a measure of reprisal against acts done in other Allied States. They have similarly justified the liquidation of French property in Germany on the ground that similar measures have been taken against German property in other Allied countries. Thus, the principle of joint liability to which Germany now objects has been initiated by herself, and she has created a situation which does not permit the Allied and Associated Powers in practice to separate the obligations of her allies from her own. Nevertheless the Allied and Associated Powers are prepared to omit from the charge on the property of German nationals the liability to satisfy the unpaid debts of nationals of Powers allied with Germany.

(d) The method of using this property laid down by the Treaty cannot be considered, either in principle or in the method of its application, as a measure of confiscation. Private German interests will only be injured by the measures contemplated so far as Germany may decide that they shall be, since all the proceeds of German property will be carried to the credit of Germany, who is required to compensate her own nationals, and will go to reduce her debt to the Allied and Associated Powers.

V.

DEBTS.

While reciprocity cannot be accorded in all respects, the Allied and Associated Powers have nevertheless applied this principle wherever it has been possible. Such is the case with regard to the Clearing Office system provided in the Conditions of Peace. Reciprocity is complete in so far as regards individuals. The system departs therefrom only in so far as regards the non-payment to Germany of balances which may become due by the Allied and Associated Powers, and this provision is merely the application of the principle of the retention of enemy property for payment of claims.

1. *Provision of Article 296 (e), under which each of the Allied and Associated Powers, but not Germany, is able to decide whether the scheme is to be applied between Germany and any Allied Power or not.*

It is not possible to give both the Allied or Associated Powers and Germany an option whether to adopt the scheme or not, for the result might be that one Power would decide to adopt it and the other not to adopt it.

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2. *Provision of Article 296 (d) that debts shall be paid in the currency of the Allied or Associated Power concerned at the pre-war rate of exchange.*

Owing to the great depreciation in the value of the mark, some hardship will necessarily result in the settlement of pre-war debts whatever basis of settlement may be adopted. The method provided for is as fair to both sides as could be devised. While under this scheme an Allied creditor who is owed a sum in marks by a German debtor will receive an equivalent amount in Allied currency at the pre-war rate of exchange, a German creditor of an Allied debtor who owes a sum in marks will also be credited with the amount of Allied currency calculated at the pre-war rate of exchange, so that reciprocity is accorded in this respect.

3. *Prohibition of direct arrangements between debtors and creditors.*

It appears that one of the objections to the prohibition of direct agreements between debtors and creditors is that such prohibition will prevent modification of the amount of the debts. An essential part of the scheme is that debts shall be guaranteed by the Governments concerned and paid in full, and no provision which would enable debtors and creditors to agree to be satisfied with some smaller amount than the full claim can be admitted.

Article 296, paras. 3 and 4.

4. The reserve contained in Article 296, paragraphs 3 and 4, provides for a case in which the payment of interest on Government securities shall have been suspended or deferred with regard to all the holders of these Government securities whatever their nationality. The clearing office system ought not to have the effect of allowing a former enemy to receive interest when holders who are nationals of the State by which the loan was issued or neutrals have not been paid. This provision is reciprocal. Ex-enemy holders of similar securities will receive arrears of interest under the same conditions as other holders.

Article 296 (b).

5. The German Delegation objects to the guarantee of the State for the debts of its citizens only on the ground that reciprocity is not given. Full reciprocity is given with regard to this guarantee. The necessity for retaining any balance in favour of Germany arises, as explained above, from the fact that the immediate resources of Germany are not adequate to meet her obligations.

An explanation is desired of the terms "bankruptcy," "failure," and "formal indication of insolvency." These terms indicate conditions in which it has been recognised, in accordance with the laws of the State where a debtor resides, that he is not in a position to meet his liabilities in full.

Article 296 (c).

6. As explained above, there is nothing inequitable in the provision with regard to the currency and rate of exchange to be adopted for payment of debts. It is further suggested in the German Note that the method of settlement adopted will create a great demand for bills of exchange in the currency of the Allied and Associated Powers, and that this will necessarily lead to a further depreciation of German currency. There is no reason to anticipate such a result, for the balance due by Germany will in practice be settled by crediting Germany with the proceeds of German property liquidated in Allied or Associated States.

Article 296 (d), last paragraph.

7. As regards the rate of exchange in the case of new States, due regard will no doubt be paid by the Reparation Commission, in fixing the rate of exchange, to the provisions in force in the new States as to the relations between its currency and the currency previously existing in its territory.

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Article 296 (e).

8. The German Delegation points out that a period of six months is allowed within which any Allied or Associated State may decide to adopt the clearing office scheme, and suggests that if it is to be put into operation a speedy decision should be required. In this respect satisfaction can be given to the German Delegation, and for this purpose the period of six months can be reduced to one month from the date of ratification of the Treaty of Peace by the interested Power.

Article 296 (f).

9. This Article provides for the possibility of two Allied and Associated States which have adopted as regards Germany the clearing office system, agreeing that nationals of one in the territory of the other shall be treated as nationals of the latter with regard to the payment of their pre-war debts to Germans and the recovery of debts owing to them by Germans.

Article 72 (Special Provisions with Regard to Alsace-Lorraine).

In fact and in law economic relations between Alsace-Lorrainers and Germany have been suspended by the occupation and by the Armistice. They will only be resumed at a later date.

It is therefore necessary that the debts of which the payment has been suspended should be regulated by a special clearing office at a fixed and reciprocal rate of exchange.

The only debts here in question are those between Alsace-Lorrainers who acquire French nationality on the one hand, and the German Empire, German States, and their nationals on the other hand.

VI

PROPERTY RIGHTS AND INTERESTS.

Articles 297 and 298.

The German Delegation refers in the first place to the observations in its note of the 22nd May with regard to private property, rights and interests. The Allied and Associated Powers have examined above the principles involved in that note.

The Remarks of the German Delegation repeat the objection as to the right reserved to the Allied and Associated Powers to liquidate German property after the coming into force of the Treaty; to apply measures of liquidation in territory detached from Germany; and to avail themselves at once of the advantages of the settlement provided for in the Conditions of Peace.

It is sufficient to refer on this subject to the explanations already given, pointing out that the use of property in the manner provided is an essential means for the Allied and Associated States to recover a part of their claim. It is necessary, therefore, for this principle to be applied as widely as possible, and there can be no question of limiting it to property in Allied territory as that territory existed before the war, or to property which has already been liquidated during the war.

Nevertheless it appears possible to provide a special regime in this respect so far as regards the newly created Allied and Associated Powers and those which are not entitled to reparation in accordance with the Conditions of Peace.

So far as regards these Powers provision is now made that, without prejudice to the rights given to the Reparation Commission by the present Treaty, the proceeds of liquidation shall in certain cases be paid direct to the owner. If on the application of the owner the Mixed Arbitral Tribunal provided for by Section VI, or an arbitrator appointed by that Tribunal, is satisfied that the condition of the sale or measures taken by the Allied or Associated Government by which the liquidation has been effected, outside their general laws, were unfairly prejudicial to the price obtained, they shall

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have discretion to award equitable compensation to be paid by the Allied or Associated Government concerned to the owner.

Certain provisions of Article 297 of the Conditions of Peace are further made the subject of observations by the German Delegation with regard to special matters.

1. The Note of the 22nd May refers to paragraph 10 of the Annex to Section IV relating to the handing over of securities, certificates and like documents of title with regard to property situated in Allied and Associated countries. With regard to such delivery the Allied and Associated Powers have simply adopted a different method from that which Germany herself has adopted in like matters, but with no variation of principle. Germany, in case of similar liquidations of Allied property, gave new securities or certificates to German or neutral nationals, excluding Allied or Associated nationals from the companies or associations concerned. The Allies have considered it preferable for the purpose of liquidating German interests in Allied enterprises to require from Germany the direct delivery of the securities and documents of title held by Germans. This difference in method gives no reasonable ground for complaint.

Article 297 (f) and (g).

2. The German Delegation asks for an explanation with regard to the conditions in which nationals of Allied and Associated States who are owners of property which has been subjected to a measure of transfer in German territory can require the restoration of such property. This power is given to nationals of Allied and Associated States in the territory of which legislative measures requiring the general liquidation of enemy property were not in application before the signature of the Armistice. It does not appear that this provision can be misunderstood. Legislative measures requiring general liquidation clearly mean those which, as in Germany, have been passed by the legislative authority and were applicable to all the property of nationals of an enemy State.

The restoration in specie has the effect of assisting in the settlement of the compensation provided for nationals of Allied and Associated Powers, and limiting the inconveniences falling upon Germany from the depreciation of the mark.

3. The German Delegation also asks for explanations as to the disposal of the proceeds of liquidations of German property.

Such disposal is clearly dealt with by Article 297 (h) and paragraph 4 of the Annex to that Article, giving the Allied and Associated Powers the right to employ the proceeds of these liquidations as there specified.

Annex, paragraph 1.

4. The proviso at the end of the first part of the paragraph that the provisions of the paragraph shall not be held to prejudice the titles to property heretofore acquired in good faith and for value and in accordance with the laws of the country in which the property is situate by nationals of the Allied and Associated Powers, is inserted in order to prevent the rights of Allied nationals being prejudiced by the confirmation of action taken by the Allied and Associated States. This proviso will not affect the rights of German nationals.

Annex, paragraph 5.

5. The object of this paragraph is to require the restoration to the virtual owner of trade-marks outside Germany, which, through liquidation proceedings taken in Germany, have been transferred to other persons. It may be pointed out that the operation of the paragraph is limited to cases in which before the war the company incorporated in an Allied or Associated State had rights to the use of the trade marks or methods of reproduction referred to in the paragraph, and that the German company will be allowed to continue the use of the trade-marks in Germany and will also be able to manufacture in Germany.

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6. The German claim that the property of German institutions for research and education shall be wholly exempt from liability to liquidation cannot be conceded in view of the past activities of some of the institutions which nominally exist for the above purposes. Nevertheless, in the exercise of their rights under Article 297 with regard to any particular institution, the Allied and Associated Powers will have full regard to the interests of the advancement of science and education and of organisations *bonâ fide* limited to these objects.

The following explanations should be added on certain points referred to in the German Note of the 22nd May:—

It is suggested in the German Note that the Allied and Associated Governments reserve for themselves the right of extending the process of liquidation to German property which may come within their territory in the future. In explanation it may be said at once that paragraph (b) of Article 297 will be applied only to property as it exists on the coming into force of the Treaty of Peace.

The German Delegation suggests that there may have been corrupt or fraudulent machinations by persons in the Allied and Associated States dealing with the liquidation of German property. The Allied and Associated States are ready to give full assurance that proceedings will be taken against persons who have committed punishable offences in the liquidation of German property, and that they will welcome any information and evidence which the German Government can furnish in this respect.

Finally, the German Note states that it appears to be reserved to the Allied and Associated Governments to reach arbitrary decisions as regards the amount of the claims of their nationals in respect of acts committed by the German Government between the 31st July, 1914, and the date at which the respective Allied or Associated States entered the war. The Allied and Associated Governments agree that, so far as such claims are concerned, their amounts may be assessed by an arbitrator appointed by M. Gustav Ador, or if M. Ador cannot make the appointment, by an arbitrator appointed by the Mixed Arbitral Tribunal.

VII

CONTRACTS, PRESCRIPTIONS AND JUDGMENTS.

I. *Contracts.*

In the provisions of the Treaty the determination of the question of the maintenance or dissolution of contracts depends on the fact of trading between the parties being unlawful, because if such trading was not unlawful the contract could have been completed.

The provisions with regard to contracts do not apply to contracts between German nationals and the nationals of the United States of America, of Brazil and of Japan, because the constitution and law of those countries create difficulties in applying these provisions to their nationals.

It is suggested by the German Delegation that the continuance of contracts between enemies is made dependent on the inclination of the Allied and Associated States or of their nationals alone, but in the first place the exception contained in paragraph (b) of Article 299 is limited to cases in which the execution of a contract is required in the general interest, and in the second place, the execution can only be required by the Allied or Associated Government concerned and not by a national of that State. The same paragraph also provides for equitable compensation being granted where the maintenance of the contract would, owing to the alteration of trade conditions, cause one of the parties substantial prejudice.

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It is suggested further that this provision would make German contractual interests in the future a prey to the arbitrary will of aliens, but in accordance with the terms of paragraph (b) the execution of a contract thus maintained must be required within six months from the coming into force of the Treaty.

The German Delegation suggests that the future treatment of pre-war contracts cannot be solved in one and the same way for all classes of contracts, and it may be pointed out that certain classes of contracts, which are specified in paragraph 2 of the Annex, are excepted by that paragraph from the general rule of dissolution laid down by Article 299.

Article 299 (d).

It is suggested that some particular favour is shown to inhabitants of transferred territory who acquire the nationality of an Allied Power, by excluding contracts between Allied nationals and such persons from the general rule of dissolution of contracts. The Treaty, which settles the relations between Allied nationals and German nationals, has not to settle the question of the relations between Allied nationals; this question is entirely a domestic matter.

Annex, paragraph 12.

The rule laid down in this paragraph with regard to the cancellation of groups of contracts with German life insurance companies is perfectly equitable, for the German insurance company will get rid of its liability on the policies by handing over the proportion of its assets attributable to those policies.

Article 75.

The reasons of an economic character which require the cancellation of contracts concluded before the war between nationals of enemy Powers do not apply to contracts concluded during the war between Alsace-Lorrainers who regain French nationality and Germans. The maintenance of these contracts is accordingly provided for by the Treaty. At the same time, reasons of a political character may require the cancellation by the French Government in the general interest of certain contracts which were or may have been imposed on Alsace-Lorraine manufacturers with a view to subjecting their interests to German economic interests.

In order to avoid perpetuating the disturbance which cancellations of this character might introduce into commercial relations, the exercise of the right of cancellation has been limited to six months. Nevertheless, the Allied and Associated Powers agree to add to Article 75 the following provision:—

“If the dissolution provided for in the second paragraph of this Article would cause one of the parties substantial prejudice, equitable compensation, calculated solely on the capital employed without taking account of loss of profits, shall be accorded to the prejudiced party.”

II.—Prescriptions.

Article 300 (b).

This provision applies to judicial or administrative measures of execution which may have been taken in consequence of the non-performance of any act or formality during the war.

Article 300 (d).

This provision applies to cases in which a contract has been dissolved without resorting to any judicial or similar procedure. The Allied and Associated Powers agree to the addition of the words “between enemies” after the word “contract” in the first line of the paragraph in order to limit definitely the application of the paragraph to a contract between enemies.

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It is suggested by the German Delegation that paragraph (d) is unnecessary, because of the provisions of paragraph (c): but it should be pointed out that paragraph (c) only deals with cases in which rights have been prejudiced by measures referred to in paragraph (b). Paragraph (d) is accordingly necessary.

III.—*Judgments.**Article 302.*

The Treaty provides that in certain cases Allied or Associated Courts are competent to decide certain disputes, but this power is not given to the German Courts. Reciprocity is not therefore possible with regard to the execution of judgments or the application to the Mixed Arbitral Tribunal for compensation.

VIII.

MIXED ARBITRAL TRIBUNAL.

Article 304.

The suggestion that the jurisdiction of the Mixed Arbitral Tribunal be extended may be answered as follows. The purpose of the Tribunal is not only to decide new rights arising under the Treaty, but also to provide a new forum to which may be referred certain disputes concerning private rights already in existence. As to these, the Courts of the Allied and Associated Powers already have jurisdiction, and some of these Powers find insuperable difficulties in attempting to deprive their Courts of it. Under their systems of jurisprudence, and in existing circumstances, they find no sufficient reason for excluding their citizens from the access to their own courts which their laws now afford. No new jurisdiction is conferred upon any such courts, and German litigants are not prejudiced through the retention by such courts of the jurisdiction which they now have.

Article 304 (f).

The German proposal to bring into accord the wording of Article 304 (f) and of paragraph 24 of the Annex to Article 296, Section III may be accepted. For this purpose, the more precise of the two versions should be selected, viz., "The High Contracting Parties agree to regard the decisions of the Mixed Arbitral Tribunal as final and conclusive, and to render them binding upon their nationals."

Annex, paragraphs 8 and 9.

Objection is raised by the German Delegation to the provision in paragraphs 8 and 9 of the Annex to Article 304 providing that the language of the Mixed Arbitral Tribunal and the place and time of its sessions shall be determined by the Allied or Associated Power concerned; in order to meet this objection the Allied and Associated Powers agree that the language of the proceedings shall, unless otherwise agreed, be English, French, Italian or Japanese as may be determined by the Allied or Associated Power concerned, and that the time and place of meeting shall be determined by the President of the Tribunal.

Article 304 (g).

The Allied and Associated Powers further agree to accept the suggestion of the German Delegation according to which the tribunals and authorities of the High Contracting Parties will furnish to the Mixed Arbitral Tribunals direct all the assistance in their power, particularly by transmitting notices and collecting evidence.

With regard to the German note of the 29th May asking for information as to the property of German nationals in Allied and Associated countries, it is not possible to furnish a reliable estimate of the value of such property, but the German Delegation no doubt has information in its possession from the returns made to the German Government.

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IX.

INDUSTRIAL PROPERTY.

Article 306.

1. The term "ayants droit" in the French text and "legal representatives" in the English text, used in Article 306 as having an identical meaning, ought to be understood: the first as denoting the persons who legally represent the beneficiaries whose rights they have acquired, whether by succession or any other regular transfer, the second as signifying "heirs, executors and assigns."

2. The last paragraph of Article 306 relates only to cases where German-owned companies and businesses have been, or will be hereafter, liquidated under Article 297 of Section IV of the Treaty (Property Rights and Interests). The provision, which moreover corresponds to the measures taken by Germany in respect of property belonging to nationals of the Allied and Associated States is, therefore, limited to the businesses or companies which are, or will be, in existence at the coming into force of the Treaty.

3. The Allied and Associated Powers are not prepared to grant the request of the German Delegation for reciprocity in regard to the maintenance of the legal and administrative acts taken by the Government during the war in respect of industrial, literary, and artistic property. Certain Allied and Associated States have not taken any measures of this kind, so that if reciprocity were accorded it would be to the detriment of the rights of the nationals of such States without any offset.

4. The clause providing that no action shall be brought by Germany or her nationals in respect of the use during the war of her industrial, literary or artistic property by the Government of any Allied or Associated Power, or by any person acting on behalf or with the assent of such Government is clearly a proper and necessary clause providing for amnesty for all acts done by a Government or its agents. The Allied and Associated Powers are not, however, prepared to make the clause reciprocal, especially as they have no knowledge as to the action which may have been taken by the German Government with respect to the industrial, literary and artistic property owned by their citizens.

As regards the disposition of funds arising from the use of industrial property during the war, it should be pointed out that the procedure in this matter must necessarily be the same as that followed in regard to other debts.

5. The words "Unless the legislation of any one of the Allied and Associated Powers otherwise directs" in the fourth paragraph of Article 306 apply only to the legislation existing at the moment of the signature of the Treaty of Peace. There is no objection, in order to make this clear, to inserting the words "in force at the moment of the signature of the present Treaty" to qualify the word "legislation" in the first phrase of the fourth paragraph of Article 306.

6. The differences between the expression "sums due or paid" on the one hand and "sums produced" on the other in the fourth paragraph of Article 306, is explained by the fact that the effect of the Allied emergency measures will continue and that sums will be paid in the future, whereas the measures taken by the Germany will cease to have effect.

7. The fifth paragraph of Article 306, which provides that the Allied and Associated Powers shall have the right to impose limitations, conditions or restrictions on rights of industrial property owned by Germans, has by no means for its object the outlawing of such property or the confiscation of these rights.

(a) It is intended, on the one hand, to reserve to the Allied and Associated Powers the right to impose restrictions on industrial, literary, and artistic property when considered necessary for national defence or public interest. This right, which Germany has reserved to herself by her domestic legislation, is a general and continuing right, to be exercised as occasion arises in respect of industrial, literary, and artistic property acquired before or after the coming into force of the Treaty of Peace.

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(b) It is intended, on the other hand, to retain the power to use industrial, literary, and artistic property as a pledge for the accomplishment of the obligations of Germany and for the reparation of damages, in the same manner as it is proposed to retain power to deal with other German property. But it is not the intention of the Allied and Associated Powers to utilize for this purpose the industrial, literary, and artistic property which may arise after the coming into force of the present Treaty. Only the industrial, literary, and artistic property arising before or during the war will be subjected by the Allied and Associated Powers to limitations, conditions or restrictions for assuring the fair treatment by Germany of the rights of industrial, literary, and artistic property held in German territory by their nationals or for securing the due fulfilment of all the obligations undertaken by Germany in the present Treaty.

To make clear the different treatment which they intend to accord to property acquired before the coming into force of this Treaty and that acquired thereafter, the Allied and Associated Powers are prepared to add to the fifth paragraph of Article 306 the following provision:

As regards the rights of industrial, literary, and artistic property acquired after the coming into force of the present Treaty, the above-mentioned right reserved by the Allied and Associated Powers shall only be exercised in the case where these limitations, conditions, or restrictions may be considered necessary for national defence or in the public interest.

The Allied and Associated Powers see no objection to making it clear that the measures which can be taken under the fifth paragraph of Article 306 will not be exercised without compensation to the German beneficiaries of the rights, and with this object are prepared to insert after the above mentioned addition to this paragraph the following new paragraph:—

In the event of the application of the provisions of the preceding paragraph, by any Allied or Associated Power, there shall be paid reasonable indemnities or royalties, which shall be dealt with in the same way as other sums due to German nationals are directed to be dealt with by the present Treaty.

Article 307.

8. The German objection to the reservation by the Allied and Associated Powers of freedom to apply their war legislation to patents which may be revived under Articles 307 and 308 is based on an exaggerated view of the effect of this provision, which would probably affect only a small number of patents revived. All such patents would, if they had been kept up, have been subject to similar provisions during the war. The Allied and Associated Powers are prepared to limit their rights in this matter of the grant of licenses, and for this purpose to insert the words “as to the grant of licenses” after the word “provisions” in the penultimate line of the second paragraph of Article 307.

Article 310.

9. Since contracts for licenses in respect of rights in industrial, literary and artistic property should receive the same treatment as other pre-war contracts, the same procedure should be applied to them as is applied to contracts generally, as provided in Articles 299 to 305.

Article 311.

10. As regards the recognition and the protection of rights in industrial, literary and artistic property belonging to Germans in the territories separated from Germany, the following addition is made to Article 311:—

The rights of industrials, literary and artistic property which are in force in the territories separated from Germany in accordance with the present Treaty, at the moment of the separation of these territories from Germany, or which will be re-established or restored in accordance with the provisions of Article 306 of the present Treaty, shall be recognized by the State to which the said territory is transferred and shall remain in force in that territory for the same period of time given them under the German law.

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PART XII.

PORTS, WATERWAYS AND RAILWAYS.

The remarks of the German Delegation regarding the clauses affecting communications (Part XII of the Conditions of Peace) are, for the most part, too general to allow of a detailed reply, and, further, are not in the nature of technical objections. On all points the German Delegation seems to recognize that the proposed measures are capable of practical application; its opposition is essentially one of principle, both from the theoretical and the political point of view.

These objections and criticisms can, indeed, be summarized as follows:—

In the first place, Germany considers her sovereign rights to be infringed by any stipulation introducing into the régime of her ports, navigable waterways and railways any kind whatever of international control, and indeed, by any stipulation introducing any definite contractual obligation in the Treaty of Peace. Further, since Germany claims to enter the League of Nations forthwith on a footing of complete equality with other peoples, she therefore refuses to subscribe to any engagements which would not be imposed on a basis of reciprocity, and immediately, on the Allied and Associated Powers, as on herself.

Opposition on points of detail and objection to the solution of particular problems are explained only on the basis of these two fundamental differences. Germany seems to agree as to the rules of freedom of transit and international circulation, but directly the question as to the measures necessary to secure the application thereof on her territory is raised, she alleges either that she cannot submit to a “meddling in her internal organization as regards railway traffic and working,” or that “the vital strength of German coast towns is intentionally weakened by the Allied and Associated Powers securing to themselves the right to use the ports and navigable waterways exempt, in practice, from any German control,” or, finally, that adherence in advance to future international conventions on means of communication is an affront to her dignity, and that the provisions for the construction of railways and canals on her territory are a violation of her independence. In other cases (régime of tariffs on railways, equal treatment for all nations in ports and on navigable waterways), she accepts the proposed stipulations subject only to certain reserves and on condition of immediate reciprocity on the part of the Allied and Associated Powers. Similarly, it is noted that, with regard to the question of Danzig, Germany declares herself ready to accord, to assure Poland free access to the sea, facilities and advantages similar to those which are asked from her at Hamburg and Stettin on behalf of the Czecho-Slovak State; but without raising any objection of principle she claims to make the matter in both cases the subject of and a counter in a special negotiation with the interested parties only, without any international guarantee. The regulation of the Elbe, the Danube, and the Niemen, which also does not meet with any technical objections, should for similar reasons be left to friendly agreements which alone are compatible with the sovereign rights of the German State.

The Covenant of the League of Nations refers specially in Article 23 (*e*) to “provision to secure and maintain freedom of communications and of transit, and equitable treatment for the commerce of all members of the League. In this connection the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind.” This freedom of communications and equal treatment for all nations on the territory of Germany are exactly those laid down and guaranteed in Part XII of the Conditions of Peace. Until general conventions, which will be integral parts

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of the statute of the League of Nations, can render possible a wider application of these principles, it has appeared necessary to insert at once the essential provisions of such general conventions in the Treaty of Peace so that an enemy State may not, by future obstructive procedure and for political reasons, prevent their being put into force, and further to insist in advance that such general conventions shall be accepted in their entirety in the future. Provision is formally made for the extension of these provisions and for the ultimate grant of reciprocity in respect of all such as are capable of being made reciprocal, but only after five years, unless the Council of the League of Nations decides to prolong that period. It would not have been possible, by immediately granting equal treatment to Germany, to allow her to profit indirectly from the material devastation and the economic ruin for which her Government and her armies are responsible. But at the end of this period Germany will be able to claim on the territory of the Allied and Associated Powers the application of those measures which she to-day describes as constituting a meddling with her internal organization which cannot be borne, or, alternatively, she will herself cease to be bound thereby.

Such are the principles which underlie and explain the texts referring to the general régime of traffic on ways of communications. The Allied and Associated Powers have in no case attempted to prevent the legitimate use by Germany of her economic independence, but have merely proposed to prevent the abusive use thereof. Above all, they have aimed at securing freedom of communications and transit to or from young landlocked States, which in the absence of definite guarantees would have regained their political independence only to fall once again under the economic tutelage of Germany.

The same ideas have given rise to and inspired the solution of the definite problems raised by the organization of the particular communication routes in question.

Thus, the provisions regarding internal navigation routes apply only to river systems which are all international as defined by the Congress of Vienna and by later Conventions. The Oder, for example, from its confluence with the Oppa, was declared international under a Treaty between Austria and Prussia dated the 8th August, 1839; the Czecho-Slovak State possesses therefore a judicial interest in the navigation régime of this river. Nor are the canals mentioned in the Treaty the general canal system of Germany, but only (except in the case of the Rhine-Meuse and Rhine-Danube navigable waterways) the lateral canals constructed to duplicate or improve naturally navigable sections of the same international rivers. It should be noted in this connection that the Czecho-Slovak State declares itself prepared to place under the administration of the International Commission for the Oder a certain number of canals to be constructed subsequently to extend this system of waterways across its territory. Lastly, as regards the functions of the River Commissions, these are limited to the practical application of the principles laid down either in Articles 332 to 337 of the Treaty or in a future International Convention which is subject to the approval of the League of Nations. Their powers are not limited to German territory but extend in all cases to the territory of at least one of the Allied or Associated Powers. The internationalization of the Elbe is even extended to one of its tributaries whose course lies solely within Czecho-Slovakian territory, viz., the Vltava (Moldau) up to Prague. In conformity with all precedents, the sole object of the regulation of navigation on these rivers is to establish complete equality between the subjects of all nations, and not to allow any riparian State to use its geographical situation and the fact that a great route of international communication passes through its territory as a means of applying economic and political pressure on States dependent on it. Delegates from non-riparian States are included in the River Commissions as well as representatives of the riparian States, in the first place as representing the general interest in free circulation on the rivers regarded as transit routes, and, secondly, so that within the River Commissions themselves they may

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act as a check on the strongest riparian State abusing her preponderating influence to the detriment of the others. For the same reason, in deciding upon the number of representatives allotted to each riparian State, the great factor of freedom of communication must rank first.

The international régime has been, or is ultimately to be, extended to certain connecting waterways. The Rhine-Meuse and the Rhine-Danube waterways, the construction of which is contemplated, and which are necessary for the development of communication by inland navigation between the North Sea and the Black Sea and to the vital economic interests of Belgium and the New States of Eastern Europe, cannot be left without guarantee under the sole control of Germany. The Kiel Canal, which was built solely for military ends, and the administration of which is left to Germany, must in future be open to international navigation so that an easier access to the Baltic may be secured for the benefit of all.

An undeniable regard for what is right underlies the provisions relating to the use of the water-power of the Rhine on the Franco-German frontier and those regarding the cession of railway material which, nevertheless, Germany describes as contrary to justice.

The use of the water-power of the Rhine is, indeed, left entirely in the hands of France, on whose territory almost all the works will be carried out; the building of weirs on either bank by two States who are necessarily competitors could only result in interference with navigability of the river and with the free exercise of the right of passage by all interested parties, and would diminish the economic yield from the use of the power. But France undertakes to pay Germany the share due to her by natural right in the use of the power, that is, one-half of the value of the power produced after deducting the cost of the works.

As to the cession of railway material, including the cessions to Poland, it is obvious that in making a fair distribution of the available rolling-stock among the States concerned special account must be taken of the necessity of the resumption of normal working conditions. It is certainly the intention of the Allied and Associated Powers that the condition in which railways and rolling-stock should be handed over is the actual condition in which such railways and rolling-stock happened to be at the time of the signature of the Armistice; with the exception, however, as regards the cession of rolling-stock, of cases where expert commissions might decide otherwise on account of the allocation of repair shops resulting from the territorial clauses.

The Allied and Associated Powers are therefore fully convinced that the principles of these clauses, based on the desire to guarantee the free régime of international routes of communication against all obstacles, are those on which the Armistice was based and which have governed the preparation of the Treaty of Peace. Nevertheless, actuated by the spirit of justice which has always guided the work of the Peace Conference, they have endeavoured to ascertain after a further careful and detailed examination of the provisions what alterations could equitably be made therein without infringing in any way the principles set out above, and as a result the following amendments have been introduced:—

The freedom of transit between East Prussia and the rest of Germany is more clearly defined.

The number of representatives from Germany on the Commission for the Oder is increased from one to three.

Measures are taken to ensure the representation of Germany at the Conference which will be charged with the duty of establishing definitive statute for the Danube.

The (future) Rhine-Danube canal is to be subjected merely to the régime applicable to waterways declared to be international.

The provisions relating to the possibility of an International Commission being required for the Kiel Canal, and a large part of the provisions relating to railways to be constructed on German territory, are deleted.

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PART XIII.

LABOUR.

The observations put forward by the German Delegation with reference to the Labour section of the Treaty contain practically nothing which has not already been included in the two notes previously submitted by that Delegation on the 10th and 22nd May, 1919, to which full and detailed replies were sent on the 14th and 28th May. The Allied and Associated Powers do not consequently think it desirable to resume the examination of the questions already dealt with in these notes and in the replies which have been made to them.

With reference to the point concerning the protection of labour in ceded territories, Article 312 of the Treaty expressly stipulates for such protection by means of conventions to be concluded between Germany and the States concerned. Further provision, however, has been made for carrying into effect the intention of this article by inserting in it a plan for reference to impartial technical commissions of all cases in which an early settlement is not reached by direct negotiation.

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PART XIV.

GUARANTEES.

The German Delegation observe in their remarks on the conditions of peace: "Only a return to the immutable principles of morality and civilization to sanctity of treaties would render it possible for mankind to continue to exist."

After four and a half years of war which was caused by the repudiation of these principles by Germany, the Allied and Associated Powers can only repeat the words pronounced by President Wilson, on September 27, 1918: "The reason why peace must be guaranteed is that there will be parties to the peace whose promises have proved untrustworthy."